

Brussels, 18 September 1998 (13.10)
(OR. nl)

Kilag 22
2/3 98

10868/98

LIMITE

CIREA 75

43

ALGERIET (2)

NOTE

from : Netherlands delegation

to : CIREA

Subject: Situation in Algeria ⁽¹⁾

Delegations will find attached a report from the Netherlands delegation on those aspects of the situation in Algeria that may be important for assessing asylum applications submitted by Algerian nationals, including decisions on whether or not Algerian nationals whose asylum applications have been rejected should be expelled.

⁽¹⁾ This document has been translated into English only.
It may be made accessible to the public.

Wpēnēt (5)

Situation in Algeria (July 1998)

	Table of contents	Page
1.	Introduction	2
2.	Country information	2
2.1	Political developments	2
2.2	Socio-economic situation	4
2.3	Security situation	4
2.3.1	Terror	5
2.3.2	Fundamentalism	6
2.3.3	Anti-terrorism	10
2.4	Conclusions	11
3.	Human rights	12
3.1	Guarantees	12
3.1.1	The Constitution	12
3.1.2	Human rights conventions	13
3.1.3	Monitoring	13
3.2	Civil rights	14
3.2.1	Religious freedom	14
3.2.2	Interference in personal matters	15
3.2.3	Arrest and detention	15
3.2.4	Ill-treatment and torture	15
3.2.5	Disappearances	15
3.2.6	Political and other extrajudicial killings	16
3.2.7	Death penalty	16
3.2.8	Migration and mobility	16
3.3	Political rights	17
3.3.1	Press-freedom and freedom of expression	17
3.3.2	Freedom of peaceful association and assembly	19
3.4	Position of specific groups	19
3.4.1	Women	19
3.4.2	Religious and ethnic minorities	20
3.4.3	Persons performing compulsory military service and enlisted members of the armed forces	20
3.5	Conclusions	20
4.	Return	20
5.	Conclusion	21

1. Introduction

The developments which have occurred in Algeria since July 1996 with regard to the political situation, the security situation and the human rights situation are examined below.

This survey is based, on the one hand, on information provided by the Netherlands representation in Algiers which was re-opened at the beginning of November 1996, and, on the other hand, on information from public sources such as UNHCR, US State Department Country Reports, Amnesty International, Human Rights Watch, International Crisis Group 1998, Fédération Internationale des Ligues des Droits de l'Homme (International Federation of Human Rights Leagues) and the Economist Intelligence Unit.

2. Country information

For a description of the basic data regarding Algeria see the letter of 11 July 1996.

2.1 Political developments

The democratisation process referred to in the official report of 11 July 1996 has been continued over the last few years.

In November 1996 a number of constitutional amendments were approved by means of a referendum: the Islamic, Arab and Berber cultures were recognised as the three most important components of national identity; a ban was introduced on political parties based on religion, region, gender, language or ethnic background ⁽¹⁾; the establishment of the "Conseil de la Nation" ⁽²⁾ was announced.

According to the outcome of the official referendum, the turn out was 80% and 86% voted in favour of the proposed amendments.

On 5 June 1997, under the supervision of international observers and under the auspices of the United Nations, among others, general elections were held for the "Assemblée Populaire Nationale" ⁽³⁾. The pro-President "Rassemblement National pour la Démocratie (RND)" set up in February 1997 got 41% of the votes, the

⁽¹⁾ One party was subsequently forced to change its name, i.e. the moderate Islamic "Mouvement Société Islamique - Harakat al-Mijtamaa al-Islamiya (MSI/Hamas). This party was rechristened the "Mouvement de la Société pour la Paix (MSP)".

⁽²⁾ To some extent comparable to the First Chamber in the Netherlands.

⁽³⁾ Called First Chamber in Algeria: to some extent comparable to the Second Chamber in the Netherlands.

"Mouvement de la Société pour la Paix (MSP)" 18% and the "Front de Libération National (FLN)", the former "parti unique" ⁽⁴⁾, 17%. The moderate Islamic party En-Nahda obtained 9% of the votes. The secular opposition parties "Front des Forces Socialistes (FFS)" and the "Rassemblement pour la Culture et la Démocratie (RCD)", which receive much support among the Berber population, each obtained 5% of the votes. A government coalition was formed consisting of RND, MSP and FLN. Ahmed Ouyahia was again elected prime minister. The parliamentary opposition, only in evidence since independence, is made up of about 8 parties. Support was expressed in statements, including by the European Union, for the continued democratisation process.

On 23 October 1997 elections were subsequently held for the local authority assemblies and provincial governments.

About two-thirds of the electorate cast their votes during these elections. The governing party RND obtained 55% of the votes. Opposition parties claimed that there had been large-scale vote-rigging in favour of the RND and initially refused to accept the election results. There would indeed appear to have been vote-rigging, although not to such an extent as to have had a considerable influence on the final election results.

The FLN and MSP coalition partners also spoke of fraudulent practices, but did not go so far as to totally reject the election results. The FLN still managed to regain a number of seats from the RND by means of appeal proceedings.

On 25 December 1997 elections were held for 96 of the 144 seats on the "Conseil de la Nation" which, in accordance with the constitution, are elected indirectly by the local authority assemblies and provincial governments. This time the RND's dominance was well-nigh total. The RND obtained 80 of the 96 seats while the FLN got 10, the FFS 4 and the MSP 2.

The remaining 48 members are appointed by the President. The FLN benefited somewhat from this appointment. The RND's dominance was not affected by this.

These elections constituted the final step in the process of restoring democratic institutions.

⁽⁴⁾ The FLN fought for the independence of Algeria, which came about in 1962. Since then the FLN unity party has ruled Algeria with a firm hand. This only changed in the 1980s.

2.2 Socio-economic situation

The structural reform of the economy, which is aimed at a transition from a centrally planned economy to a market-oriented economy, has been under way for a number of years. The privatisation of state undertakings and the re-structuring of the banking and building sectors have recently been set in motion resulting in a slight improvement in Algeria's otherwise bad economic situation.

Macro-economic indicators point to a positive short-term situation: four years of uninterrupted economic growth, monetary stability, a positive balance of payments and balanced government finances. In addition, there has been a rise in foreign reserves to \$6.5 million and a drop in inflation to 10%. The gross national product rose by 2.5% in 1997 ⁽⁵⁾.

These improvements can be ascribed almost entirely to the growing revenue from the oil and gas sector.

Unemployment among the population is nevertheless still particularly high at 28%. The consequences of the bad economic situation mainly affect the young (about 60% of the population is under 25). Unemployment among young people amounts to almost 70%. Although the annual population growth figure dropped from more than 3% in the 1980s to 1.7% in 1997, demographic pressure remains high and there is a considerable housing shortage. For some years now purchasing power has been falling.

Algeria has a social security system offering financial support for medical expenses as well as unemployment benefits. In practice, operation of the system leaves much to be desired.

2.3 Security situation ⁽⁶⁾

Since the annulment of the parliamentary elections in 1992 and the declaration of the state of emergency there have regularly been serious acts of violence which

⁽⁵⁾ Figures taken from reports from the Economist Intelligence Unit, Country Profile Algeria 1997-1998 and first quarter of 1998.

⁽⁶⁾ See also the official report dated 30 March 1998 on the security situation in Algeria.

have cost many lives. This violence involved acts of terrorism perpetrated by Islamic groups and the government's reaction to them. The mutual settling of scores, family vendettas and disputes over farmland and fertile land are also at the root of such violence. No precise figures are available of the number of victims and estimates differ widely. Official government figures speak of 26 000 victims. External sources refer to considerably higher numbers varying from 60 000 to 100 000 dead.

In the last two years there has been a decrease in the number of victims compared with previous years.

State of emergency

The state of emergency declared on 9 February 1992 was extended for an indefinite period by the High State Council on 9 February 1993. The state of emergency has been eased considerably by suspension of the curfew, the abolition of the anti-terrorism courts set up in 1992, the abolition of internment camps and the imposition of a moratorium on carrying out the death penalty. The unlimited search and arrest powers of the security agencies and police have nevertheless been maintained. The possible lifting of the state of emergency was discussed during a parliamentary debate, although it has been decided not to go ahead with this for the time being.

2.3.1 Terror

The nature of the acts of terrorism occurring in Algeria has changed over the years. Targeted attacks on individuals, mainly in the big cities, have made way for seemingly random violence in the country and attacks on infrastructure.

In 1993 attacks were mainly directed at the personnel of the security services, their family members and at civil servants. In 1994 new groups at risk arose, including intellectuals, journalists, academics, foreigners and women who led a western lifestyle. Since 1996, massacres have taken place, mainly affecting the civilian population in rural areas.

Apart from these massacres, terrorists are also guilty of rape and the abduction of women.

Despite the many reports in the media, the question "qui tue qui?" ("who's killing

whom?") has been answered satisfactorily since the arrival of a European Parliament delegation in February 1998 ⁽⁷⁾:

the acts of terrorism are being carried out by armed groups which have often splintered away from the fundamentalist party, the "Front Islamique du Salut (FIS)", which was banned and dissolved in 1992. The delegation of Euro-parliamentarians insisted, among other things, on greater transparency on the part of the Algerian authorities about Algeria's situation so as to take the edge off the accusations of government interference in acts of violence.

2.3.2 Fundamentalism

The "Front Islamique du Salut (FIS)" ⁽⁸⁾

The FIS, which was set up in 1989, developed out of a number of Islamic fundamentalist groups which were active from the beginning of the '70s. In the '80s, support for fundamentalism grew explosively, also as a result of the increasing internal social tensions resulting from the worsening economic situation. The FIS rapidly acquired massive support.

In 1990 the FIS obtained a majority of 54.2% of the votes in the first free elections for provincial and local representative bodies.

In December 1991 the FIS again achieved major gains in the first round of the parliamentary elections. President Chadli Benjedid thereupon decided to resign, whereupon the army seized all power. The second round of the elections was cancelled.

In February 1992 the state of emergency was then declared and shortly afterwards the FIS was banned and dissolved. Many leaders, including Abassi Madani, Ali Belhadj and Abdelkader Hachani were imprisoned by the authorities. Others were forced into exile.

It rapidly became apparent that there were opposing views within the party, which was still fairly active abroad. The "radicals", i.e. those who were in favour

⁽⁷⁾ Report by the ad hoc delegation on the visit to Algeria (8-12 February 1998), European Parliament, Committee on Foreign Affairs, Security and Defence Policy.
⁽⁸⁾ For previous information, see also the official report of 10 August 1993 on the position of FIS supporters in Algeria, reference DAZBA/54572.

of continuing the armed struggle and showed no willingness to make concessions, were opposed to the "politically-minded" who did not want to rule out negotiations with the government.

As from 1997, it was apparent from various signals that the moderates within the former FIS had gained the upper hand. Some FIS representatives abroad spoke out openly against the use of violence and declared themselves willing to start a dialogue with the government ⁽⁹⁾. The release of two important FIS leaders in July 1997 seemed to be linked to the truce announced a few months later by the "Armée Islamique du Salut (AIS)", the armed wing of the FIS. This truce was also aimed at isolating the "Groupes Islamiques Armés" (GIA, see p. 9).

The truce came into effect on 1 October 1997 and was subscribed to by other armed groups, including the Islamic League of the Vocation and the Jihad (LIDD) and the "Front Islamique du Djihad Algérien (FIDA)".

"Armée Islamique du Salut (AIS)"

The "Armée Islamique du Salut (AIS)" was set up in 1994 and is regarded as the armed wing of the FIS. It operates in cells which are led by emirs. The AIS has observed a unilateral truce following an appeal by its commander Madani Merzag to cease all military operations as from 1 October 1997. Apart from a few obdurate emirs, no armed operations - previously mainly directed at infrastructure - have since been carried out by AIS cells.

An amnesty, which came into force in 1995, offers fundamentalists who lay down their arms the possibility of being reintegrated into normal life ⁽¹⁰⁾. Considerable use is being made of this arrangement in practice. It contributes towards improving

⁽⁹⁾ On 12 November 1996, the leadership in exile condemned acts of violence against children, women and the elderly. The FIS distanced itself from "unbelievable violence". An FIS spokesman, Abdelkrim Ouid Adda, stressed on 2 April 1997 that the armed wing of the FIS, i.e. the AIS, had no links with the GIA and that it only attacked military targets.

⁽¹⁰⁾ This "droit de clémence" (right of clemency or "rahma") was introduced by the authorities on 25 February 1995. The authorities held out the prospect of lenient penalties and of efforts to reintegrate those concerned into normal life. Strict rules nevertheless apply, and such cases are judged by special courts.

the security situation. Former AIS supporters are at present being integrated into the security forces and are often used as informers.

"Groupes Islamiques Armés (GIA)"

The "Groupes Islamiques Armés (GIA)" constitute a terrorist organisation ⁽¹¹⁾. They are composed of small, informal and mainly autonomous groups that are spread over a number of wings. Most members, including many delinquents or gangsters, are young and are led by local emirs ⁽¹²⁾. Many of the GIA leaders have fought in Afghanistan or Bosnia ⁽¹³⁾.

Since declaring the "Jihad" (holy war) in 1992, the GIA have been striving towards an Islamic ideal state. They claim that this can only be achieved by means of violence and they reject democracy. They accept no compromise whatsoever and rule out any form of dialogue. Anyone who is in any way involved with the Algerian régime is regarded as a potential target. This strategy, to which not only specific groups ⁽¹⁴⁾ but also the civilian population have fallen victim, has resulted in a considerable decrease in sympathy for armed fundamentalism.

The GIA have on various occasions shown their glorification of the use of terror. In September 1997 the GIA declared that they were responsible for the continuing violence and described the massacres as an offering to God and vowed that they would continue such actions ⁽¹⁵⁾. The GIA do not confine this objective to Algeria, but also claim to be seeking a regional revolution in Morocco, Tunisia and Egypt.

⁽¹¹⁾ On the basis of the 1996 anti-terrorist law the United States published a list of 30 terrorist organisations on 8 October 1997. The GIA appear on the list.

⁽¹²⁾ See also NRC-Handelsblad of 12 August 1997. NRC-Handelsblad correspondent Michael Stein describes the GIA as a loose collection of armed groups operating independently - without a clear political strategy - and with only one message, "Anyone who is not with us is against God".

⁽¹³⁾ See also "Le Nouvel Observateur" of 31 August-6 September 1995.

⁽¹⁴⁾ See also the official report of 11 July 1996 on the situation in Algeria.

⁽¹⁵⁾ "We are the group", according to the declaration, "that kills and murders with God's consent and we intend to continue to do so until God's word has been exalted". See also US Department of State, Algeria Country Report on Human Rights Practices for 1996.

"Front Islamique du Djihad Algérien (FIDA)"

The FIDA was set up in Algiers in 1995. The Front has claimed responsibility for the attempted murder of the important Algerian trade union leader Abdelhak Benhamouda, who was shot dead on 28 January 1997. Adelkader Seddouki, leader of the FIDA, was killed by the security services during an exchange of fire on 26 March 1997. The FIDA has joined the truce declared by the AIS.

"La Ligue Islamique de la Dawaa et du Djihad (LIDD)"

The LIDD was set up in February 1997 and is said to be a splinter group of the GIA with a less violent strategy. The LIDD has joined the AIS truce.

Rivalry

The ban on the FIS in 1992 and that party's dissolution shortly afterwards has had major consequences for cohesion within the fundamentalist movement.

There was increased polarisation between the various factions and this became even more intense when a major section of the (former) FIS began to moderate its radical course and indicated that it wished to enter into a dialogue with the government.

The GIA not only accused fundamentalists of being renegades because they were prepared to enter into a dialogue with the government but also tried to eliminate them ⁽¹⁶⁾.

Skirmishing frequently occurs between rival groups, especially since the GIA openly declared war on the FIS/AIS in January 1996. A wave of violence broke out ⁽¹⁷⁾ when a number of FIS leaders (Ali Djeddi and Abdelkader Boukhamkham) were

⁽¹⁶⁾ In a declaration of September 1997 the GIA rejected the AIS's intention of observing a truce as of 1 October 1997 in the following terms: "We inform you that in accordance with our faith and our customs: no dialogue, no treaty and no reconciliation".

⁽¹⁷⁾ See also "De Groene Amsterdammer", De Massamoorden (The Massacres), Ahmed Ancer, 12 November 1997.

released in 1994 and when Madani and Hachani were released in July 1997.

Violent clashes between rival factions within the GIA on account of disagreement over the strategy to be conducted have led to the GIA's fragmentation into virtually autonomously operational cells.

2.3.3 Anti-terrorism

The current acts of terrorism occur mostly in remote areas that are geographically difficult to reach. Because of this the authorities are powerless to offer the population adequate protection against all forms of terrorism. The anti-terrorism campaigns are, however, relatively successful and the armed fundamentalists are constantly forced to change their tactics. Islamic extremists no longer pose a credible threat to the continued existence of the Algerian régime.

The improved security situation in the cities, where attacks nevertheless still occur, has resulted in a drop in the number of victims from categories previously described as being at high risk (see 2.3.1).

In addition to the security services the army has also been deployed to combat terrorism, and since 1994 paramilitary people's defence militias have been set up.

The population's increased willingness to give support to the security services has also resulted in an improved security situation.

"Sûreté nationale (national security service)"

The security services' primary task is to combat terrorism. Its 20 000 members form part of several smaller organisations, including the police and the investigation services, which are responsible for public order in urban areas, in particular.

"Armée Nationale Populaire" (army)

The Algerian armed forces, i.e. the Armée Nationale Populaire, have a total complement of about 140 000. Most of these belong to the land forces, 70 000 of

whom are military servicemen serving a period of eighteen months. The different policy approach for dealing with terrorism is also to be found within the present military leadership in Algeria. There is considerable opposition between the moderates and the hardliners. The moderates ("conciliateurs") are in favour of a (resumption) of the dialogue with moderate leaders within the FIS and other Islamic parties. The hardliners ("eradicateurs") are opponents of dialogue and want to eliminate the terrorists definitively, involving large-scale tough action by the army as part of this strategy.

In Algeria the army has also been deployed to combat terrorism. The army was not meant to carry out this task, although training, exercises and the procurement of equipment has enabled it to push back terrorism. The Algerian government admits that the army and the security services are guilty of human rights violations in the fight against terrorism. The government has stated that the perpetrators of such violations are being prosecuted.

"Groupes d'Autodéfense Légitime" (civil defence militias)

In 1994 the authorities decided to set up local militias in remote areas where the authorities could offer the local population only inadequate protection. In some regions the absence of government security forces was almost entirely offset by the use of armed militias ⁽¹⁸⁾. In some instances the government supplied weapons ⁽¹⁹⁾. These groups have had official status since 1997.

Civil defence militias have been guilty of human rights violations in maintaining order. If known, the perpetrators of such crimes are prosecuted.

2.4 Conclusions

The democratisation process in Algeria has continued over the last few years and has in the meantime resulted in the formation of an elected parliament.

⁽¹⁸⁾ Amnesty International, Algeria civilian population caught in a spiral of violence, 18 November 1997.

⁽¹⁹⁾ Control Risks Group, Algeria, 29 May 1998. See also "Le Monde", 5 September 1995.

The social and economic situation is far from rosy. There is a considerable housing shortage and high unemployment.

Despite the cease-fire declared by the AIS, which came into force on 1 October 1997 and was endorsed by certain other armed fundamentalist groups, terrorist acts are still taking place in Algeria, committed mainly by members of the GIA. There are cases of armed fundamentalist groups committing atrocities against members of fundamentalist groups which are seeking a dialogue with the government.

The improvement in the security situation has resulted in a relative decline in the number of victims.

Other contributory factors are increased action by the army and the security services, the integration of former AIS activists into the State army and the security services and effective application of the amnesty laws. Another significant factor is increased willingness on the part of the civilian population to cooperate with the army and the security services after terrorists started massacring the civilian population themselves, in particular women and children.

The state of emergency is still enforced, albeit much less rigorously.

The Algerian authorities are not yet in a position to exercise real control over the whole territory. Nor are the authorities able to offer full protection to the population in the whole of Algeria, particularly in the Mitidja, the area south of Algiers. The Algerian government admits that human rights violations are being committed in the course of the army's campaign against terrorism. Some members of civil defence militias have been guilty of human rights violations. Such crimes are currently being prosecuted.

3. Human rights

3.1 Guarantees

3.1.1 The Constitution

The Constitution adopted in 1989 was to all intents and purposes suspended as a result of the 1991 coup. Not until November 1996 did a new - amended - Constitution enter into force which made explicit provision for the independence of the judiciary. Previously that independence was not guaranteed and on occasion the

executive power interfered in matters which were the preserve of the judiciary ⁽²⁰⁾.

The Constitution provides guarantees of a fair trial. The possibility of lodging an appeal against decisions of the administrative authorities is mentioned in the Constitution itself. The code of criminal procedure provides for the right of appeal against judgments of "tribunaux" (tribunals dealing with minor offences) before the courts which also deal with more serious crimes at first instance. In the last instance an appeal can be made against judgments of both tribunals and courts of law to the highest court in the land, the "Cour Suprême".

Criminal proceedings against military personnel and members of local defence militias, where integrated into the army, are conducted by courts martial. Members of security services are tried in civil courts.

3.1.2 Human rights conventions

Algeria is a party to most of the human rights conventions, such as the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

3.1.3 Monitoring

Two human rights organisations are active in Algeria, the "Ligue Algérienne de Défense des Droits de l'Homme (LADDH)" and the "Ligue Algérienne des Droits de l'Homme (LADH)". In addition, a government body, the "Observatoire National des Droits de l'Homme (ONDH)", was set up in 1992 to monitor human rights violations. It receives complaints about human rights violations and informs the judicial authorities so that a competent body can instigate criminal proceedings against the perpetrators. It also submits an annual report to the government on human rights violations in Algeria and makes recommendations. In March 1998 the ONDH

⁽²⁰⁾ US Department of State Algeria Country Report on Human Rights Practices for 1996.

notified the government of 128 cases of such violations, including murder, rape, abduction and robbery, by members of security services and civil defence militias.

The LADDH and the LADH both operate independently. The LADH mainly monitors individual cases. The LADDH, which is close to the former FIS, is more active than the LADH; it addresses itself mainly to the general situation, but is impeded in its activities by the authorities.

International human rights organisations such as Human Rights Watch (HRW) and the International Federation of Human Rights (IFHR) were admitted to Algeria in 1997. Amnesty International was refused entry to Algeria at the start of 1997 ⁽²¹⁾.

The international community, including the European Union, has for some time been pressing the Algerian authorities to admit special rapporteurs from the UN Human Rights Commission, viz. the Special Rapporteur on Torture and the Special Rapporteur on Extrajudicial Executions. The Algerian authorities regard this pressure as interference in internal affairs and are as yet unwilling to allow this.

3.2 Civil rights

3.2.1 Religious freedom

In the Constitution Islam is established as the State religion. The Constitution forbids discrimination on grounds of religion. The small Christian and Jewish communities encounter no difficulties on the part of the Algerian State and can profess their faith relatively freely.

Conversions from Islam to Christianity are rare. There are no legal penalties for apostasy although, if confessed, this might provoke adverse reactions from a social viewpoint.

⁽²¹⁾ There had previously been disagreement between Amnesty International and the Algerian authorities over the level of reception to be provided by Algeria for a forthcoming visit by the AI Secretary-General.

3.2.2 Interference in personal matters

Algeria is embroiled in a struggle against terrorism. It therefore happens that dwellings are broken into without a search warrant. Telephones are sometimes tapped and there is a network of informants gathering information on terrorists and political opponents.

3.2.3 Arrest and detention

There have been arbitrary arrests and detentions by the security services. Lawyers defending suspects in security cases have also been held ⁽²²⁾.

The Constitution limits the period of custody ("garde à vue") to 48 hours. Under the Code of Criminal Procedure this period can be extended to four days. However, the period of custody for persons held on suspicion of subversive or terrorist activities may legally be extended to a maximum of twelve days. In practice the lawful period of custody is regularly exceeded.

The prisons are overcrowded. Prison conditions can at best be described as austere.

3.2.4 Ill-treatment and torture

Ill-treatment and torture are current and are carried out by both (members of) the armed fundamentalist groups and persons working for the government. Those suspected of having active links with terrorist organisations run an increased risk. The government acknowledges that the security services are occasionally guilty of excesses. Where the perpetrators are known the government claims that it will prosecute. It has repeatedly stated that ill-treatment and torture - even by government agents - must be prosecuted and punished.

3.2.5 Disappearances

International human rights organisations report considerable numbers of disappearances (between 1000 and 2000 since 1992). The ONDH cites

⁽²²⁾ US Department of State Algeria Country Report on Human Rights Practices for 1997.

lower figures and notes a decline ⁽²³⁾. The Algerian authorities acknowledge the problem of disappearances. In 1996 the military authorities even set up an office for assisting relatives and helping to trace missing persons. Sometimes people join armed fundamentalist groups and are no longer seen.

3.2.6 Political and other extrajudicial killings

Various sources report extrajudicial executions by the security services and armed militias. Armed fundamentalists used to make assassination attempts against specific groups. These targeted activities have virtually ceased at present. Better protection by the authorities and an improvement in the overall security situation are partly responsible for this.

Members of the security services and anti-terrorist units can also be fatally wounded in the course of their anti-terrorist activities.

3.2.7 Death penalty

The death penalty exists in Algerian law for i.a. offences against State security, the taking of human life and economic sabotage. It also exists in military law.

The 1992 anti-terrorism act also made the death penalty an option in the case of subversive or terrorist activities for which the Algerian penal code required a maximum penalty of life imprisonment. The death penalty may therefore currently be imposed on persons convicted of involvement in violent activities carried out by terrorist groups.

At the end of 1993 the carrying out of the death penalty was suspended.

3.2.8 Migration and mobility

The Constitution guarantees the freedom to travel within Algeria, to leave the country or to emigrate. However, illegal exit is seen in Algeria as an offence attracting little or no punishment.

⁽²³⁾ The ONDH received 50 reports of disappearances in 1996. In 1995 the number was 116.

Algeria has a disparate transport system in which rail travel is the most widely used. Although figures are not yet available for air transport within Algeria it is an established fact that maximum use is made of this means of transport and its use increased in 1997. Buses and (collective) taxis are also widely used. The number of people who travelled between Algeria and Europe in 1997 (both ways) was around one million, with half of them going to France. The number of travellers to neighbouring countries (mainly Tunisia) in 1997 was also one million.

Checks at airports and ports and at official border crossings are strict. Regular checks are carried out on Algerian roads by the gendarmes, looking i.a. for evidence of support for terrorist activities.

Terrorists occasionally use roadblocks in order to rob or murder travellers. In four southern provinces, where a substantial part of the gas industry is located and there are many foreign workers, stricter security measures apply ⁽²⁴⁾.

For men liable to be called up for military service there are restrictions on leaving the country.

People suspected of having committed abroad offences punishable under Algerian law risk prosecution if they return. People who have been convicted and punished abroad for crimes committed there need not fear a further conviction when they return to Algeria (*ne bis in idem*).

3.3 Political rights

3.3.1 Press freedom and freedom of expression

The Constitution guarantees freedom of expression. Restrictions may be imposed on this freedom under the 1990 media act if it conflicts with the dignity of the

⁽²⁴⁾ In March 1995 security measures were stepped up in three "exclusion zones". One year later a fourth zone was added. It was no longer permissible to travel without a police escort beyond a radius of 15 km from Hassi Messaoud. The purpose of this measure was to protect the Saharan oil and gas fields, which account for 95% of Algeria's exports: The Middle East and North Africa, 1998. Control Risks Group, Algeria, 29 May 1998.

individual, foreign policy and national defence.

On the basis of the state of emergency and the anti-terrorism act the government can restrict this freedom and take steps against anything which is perceived as a threat to the State or public order.

There is no legally or administratively imposed censorship. The instruction issued by the Ministry of the Interior in March 1994 requiring editors to base information relating to the security situation in Algeria exclusively on official government communiqués has not been applied since 1996.

Newspapers and journalists publishing articles unacceptable to the authorities can have obstructive measures taken against them ⁽²⁵⁾. A number of papers and periodicals were banned, often without clear reasons being given. In practice a degree of toleration is emerging and articles critical of government policy are frequently published in newspapers and periodicals. Parliamentary debates are in some cases broadcast in full on TV, as was the case with the debates on the security situation in February this year.

The greater openness has enabled more information on the violence to be broadcast to the outside world than was previously possible.

Receiving foreign TV stations by satellite dish is allowed and foreign programmes are widely advertised in the press. The Internet is freely accessible to citizens. The availability of these technologies has a positive effect on the extension of freedom of expression.

Foreign journalists are being granted visas on a larger scale than in the past. People less acceptable to the Algerian authorities, however, are still refused visas. In conclusion it can be stated that there is considerable press freedom, certainly in comparison with other countries in the region.

Moreover, at the end of 1997 the President issued a directive outlining the main

⁽²⁵⁾ Such measures can range from legal prosecution for libel and failure to receive sufficient newsprint (paper distribution is a government monopoly) to exclusion of dailies from government advertising.

features of a new media act to replace the current act of 1990. The act provides for an extension of press freedom and a broad allocation of frequencies to private radio and TV stations. Parliamentary discussion of this act is in progress.

3.3.2 Freedom of peaceful association and assembly

Freedom of peaceful association and assembly, as laid down in the Constitution, has been radically curtailed with the proclamation of the state of emergency in 1992. Since that time the holding of public meetings of citizens or organisations has been subject to authorisation.

In 1997 it was easier for groups to hold meetings than in the previous year, but various applications to hold public meetings were nevertheless turned down.

3.4 Position of specific groups

3.4.1 Women

Women take a secondary role both socially and legally.

The "Code de la Famille" (Family Code) (1984) forms the legal basis for the subordination of women, placing them under the authority of the spouse or a male family member. A woman needs her father's approval in order to marry. Only in rare cases may a woman petition for divorce.

The woman usually has custody of the children, but she requires the approval of the children's father regarding various aspects of their upbringing. The Family Code is currently being revised. A draft put forward by the Minister for Solidarity and the Family did not go far enough in the view of some Algerian women's organisations. However, complete abolition of the Code, which they are campaigning for, appears politically unattainable as yet.

The 1990 Labour Act forbids sexual discrimination on the labour market. Women who aspire to a high level of education or a career often encounter social pressures. They are nevertheless active throughout the country in a variety of professions, as officials, in the army, education, the legal profession and the medical sector, and hold prominent positions as ministers, parliamentarians, and leader of a political party.

3.4.2 Religious and ethnic minorities

The small Christian and Jewish communities encounter no problems at the hands of the Algerian State. The Tamazight-speaking Berbers, estimated to make up 20% of the population, are able to give expression to their Berber identity and campaign for the promotion of their culture. However, their striving for official recognition of Tamazight is becoming impossible to achieve and since 5 July 1998 Arabic has been the only official language ⁽²⁶⁾. There is much opposition to this on the part of the Berbers.

3.4.3 Persons performing compulsory military service and enlisted members of the armed forces

For a description of the present situation regarding the above, see my letter of 11 July 1996, ref. DAZ/BA nr. 67301.

3.5 Conclusions

In Algeria human rights violations are taking place, mainly carried out by armed fundamentalists. On the government side, the security services in particular are guilty of violating human rights in the course of combating terrorism. In principle the perpetrators are prosecuted wherever possible.

The (alleged) members of armed groups run the risk of persecution. The exclusion clause in the Convention on Refugees can be applied to this category of persons ⁽²⁷⁾.

Arbitrary arrests, disappearances and torture still occur in Algeria.

4. Return

There is no reason to assume that a rejected asylum-seeker who returns to Algeria need fear persecution at the hands of the Algerian authorities merely because he has

⁽²⁶⁾ The new language act requires the use of Arabic in all official documents. Nor may any other language be used at political meetings, on pain of fines.

⁽²⁷⁾ Guidelines relating to the Eligibility of Algerian Asylum-seekers, UNHCR, 21 November 1997.

lodged an asylum application abroad.

Policy of other countries

The United Kingdom, Germany, Denmark, Spain and Sweden see no reason in Algeria's general situation not to expel rejected asylum-seekers and other persons not admitted to that country. These countries do indeed carry out expulsions to Algeria. Expulsion is made more difficult by problems connected with the obtention of substitute travel documents from the Algerian authorities. France only expels delinquents and illegal immigrants.

UNHCR

The UNHCR's standpoint has always been that if an asylum application has been rejected following a detailed procedure expulsion to Algeria may be effected ⁽²⁸⁾.

5. Conclusion

The democratisation process has continued in Algeria in recent years. Elections have resulted in the establishment of a multi-party system and a democratically-elected parliament.

There has been an improvement in freedom of the press and the actual censorship which took place previously has eased off. The media regularly carry reports on the security situation.

The unilateral truce declared by the armed wing of the FIS, the AIS, has led to a fall in violence. However, other groups, in particular the GIA, are continuing to organise terrorist attacks, mainly affecting the rural population. Unlike before, no specific risk groups can be distinguished here.

The Algerian authorities are regaining power, but have as yet been unable to exert genuine control over the entire territory. The government is therefore unable to offer full protection for the population throughout Algeria.

⁽²⁸⁾ UNHCR letters of 9 April 1997, 10 June 1997 and 22 December 1997.

This applies in particular to the Mitidja, the area south of Algiers. Despite a fall in violence, there is no prospect of a rapid end to terrorism. The state of emergency is still in force, albeit to a considerably lesser extent.

Human rights violations against the population are committed by the security services and the police in the fight against terrorism. However, there are no indications of any structural or large-scale violations. The government takes action against members of the security services who are guilty of human rights violations, although it cannot at this stage be expected to identify or prosecute all offenders.

However distressing Algeria's general situation may be, it is not such that it must be assumed that no Algerian, irrespective of his background or place of residence, may be expected to return to his country of origin. However, the situation in Algeria does call for a very close and precise assessment of the risks involved in each individual case.

THE MINISTER FOR FOREIGN AFFAIRS

(pp.)

Director ad int. for the Movement of Persons, Migration and Consular Affairs

(H.H. van Poorten)