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Algeria: Situation of returnees, including failed asylum seekers; treatment of returnees by authorities and society (2021–May 2023) Research Directorate, Immigration and Refugee Board of Canada

1. Overview

In December 2020, the Documentation and Research Centre (Centre de documentation et de recherches, Cedoca) of Belgium's Office of the Commissioner General for Refugees and Stateless Persons (Commissariat général aux réfugiés et aux apatrides, CGRA) published a report covering the period from 2019 to 2020 concerning the treatment of returnees by the Algerian authorities, in which it states that [translation] "Algeria has been dealing with the problem of harragas" for "many" years (Belgium 2020-12-03, 3, 4). According to sources, harraga [haraga] ([translation] "one who burns") is an Arabic term for a person who leaves the country for Europe "illegally or irregularly" (Belgium 2020-12-03, 4) or without a passport or visa (Arab News 2021-10-06). Andalou Agency (AA), the state news agency of Türkiye (AP 2019-03-28), also reports that, according to the EU ambassador to Algeria, 14,000 people, of whom Algerians form the largest group, reached Spain illegally between January and September 2021 (AA 2021-12-06). According to the same source, from 27 September to 3 October 2021, the Spanish Civil Guard reported the arrival in Spain of [translation] "nearly 1,900 irregular migrants, 72 percent of whom are Algerians" (AA 2021-12-06). Furthermore, an article published in March 2016 by Farida Souiah, a doctorate holder in political science, in Après-Demain, a quarterly review published by the Seligmann Foundation (Fondation Seligmann) [1] on current issues (Fondation Seligmann n.d.b), states that although harragas have been recognized as [translation] "victims" [of human smuggling networks] by the Minister of Justice before parliament [People's National Assembly (Assemblée populaire nationale, APN)], they are penalized by the Algerian Penal Code for having left the national territory illegally (Souiah 2016, 20) [see section 2 of this Response].

In correspondence with the Research Directorate, a researcher and doctoral student at Temple University whose research focuses on diaspora and immigration, including in Algeria, noted the following categories among returnees: [Doctoral student English version] "expelled or refouled" persons, retired persons, and persons who have decided to return to their country of origin (Doctoral student 2023-05-26).

According to Algérie Presse Service (APS), an Algerian public news agency (APS n.d.), in an article published in October 2021, Algerian president Abdelmadjid Tebboune called on [translation] "diplomatic and consular centres" to improve their interactions with the Algerian diaspora, whom he asked to become more involved "'in the Nation's economic recovery project" (2021-10-16). According to the Chairman of the APN's Committee on Foreign Affairs, Cooperation and Community (Commission des Affaires étrangères, de la Coopération et de la Communauté), who was quoted in May 2022 by the same source, President Tebboune has, among other things, revised ticket prices and authorized Air Algérie to expand its fleet of airplanes and ships to enable the Algerian community that is living abroad to come [translation] "visit the country under the best conditions" and "'take part in President Tebboune's initiative to bring [Algerians] together'" (APS 2022-05-24). The Department of Labour, Employment and Social Security (ministère du Travail, de l'Emploi et de la Sécurité sociale) has announced the launch of an electronic portal, operational as of 6 March 2023, that enables any citizen living abroad who wishes to register in the pension plan to do so; the press release states that this measure is part of the President's commitment to the diaspora (Algeria 2023-03-02). An application to register can be submitted online via the Teledeclaration (Télédéclaration) portal of Algeria's

National Social Insurance Fund for Salaried Workers (Caisse nationale des assurances sociales des travailleurs salariés, CNAS) (Algeria n.d.).

The information in the following two paragraphs was provided in articles published by Human Rights Watch (HRW):

[HRW English version] "[A]t least" three activists from the diaspora who had settled in Canada were banned from leaving Algeria when they visited the country between January and April 2022. The authorities "interrogated" the individuals "about their links to the Hirak [2]" and, according to the activists, did not notify them of "any legal basis" for the travel ban, leaving them with almost no legal remedy to challenge the measure (2022-05-06).

The Algerian authorities have imprisoned [HRW English version] "hundreds of Hirak activists." For example, a former army corporal who fled to Spain in 2019 "fearing reprisals" after participating in Hirak protests but was deported to Algeria, was "promptly jailed" upon his return to the country and tried on charges of publishing "'false information' that harms 'territorial integrity'." " [A]fter serving 18 months of a prison term [in Algeria] for 'insulting Islam'," a UN-recognized refugee fled to Tunisia, where "witnesses reported seeing men in plainclothes abduct him from his home in Tunis" on 25 August 2021, before he resurfaced in police custody in Algiers four days later (HRW 2022-05-26).

2. Legal and Regulatory Framework

Article 175 bis 1 of the Penal Code sets out the penalties for any Algerian citizen who leaves the national territory [translation] "illegally" in the following terms:

Section VIII (3)

Offences committed in breach of laws and regulations relating to leaving the national territory.

Art. 175 bis 1. - Without prejudice to other legislative provisions in force, every Algerian or foreign resident who leaves the national territory illicitly using a land, maritime or air border crossing, through the use of falsified documents or the identity of another person or any other fraudulent means, in order to avoid presenting the official documents required or completing the procedure required by the laws and regulations in force, will be punished by a term of imprisonment of two (2) to six (6) months and a fine of 20,000 to 60,000 Algerian dinars [C\$197 to C\$592] or only one of these two penalties.

The same penalty is applicable to every person who leaves the national territory using routes other than border crossing points. (Algeria 1966, bold in original)

In a telephone interview with the Research Directorate, a lawyer running a general firm in Algeria, whose areas of specialization include immigration and who handles cases concerning returnees before the courts, stated that, apart from this provision of the Penal Code, there is no other legislative provision that could affect returnees in Algeria [translation] "in any way," unless they were already the subject of an investigation or proceeding before leaving the country (Lawyer in Algeria 2023-05-08). In correspondence with the Research Directorate, a program manager at the Algerian division of the UN International Organization for Migration (IOM) similarly stated that, apart from [translation] "a case where the person who is returning left the territory in an irregular manner," thereby committing an "illegal exit" offence punishable under article 175 bis 01 of the Penal Code as introduced by Law No. 09-01 of 25 February 2009 (Loi n° 09-01 du

25 février 2009), there are no specific laws concerning returnees in Algeria who left the national territory legally, whether they are returning "of their own will or under constraint" (UN 2023-05-24).

3. Situation and Treatment of Returnees

Information on the situation and treatment of returnees was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

The lawyer in Algeria stated that the situation of returnee Algerian citizens and their treatment [translation] "varies" from one case to another and "generally" depends on the status of the person concerned prior to their departure and/or the way that person left the national territory (2023-05-08). In an interview with the Research Directorate, an international lawyer and human rights advocate who often works on the cases of Algerians who were repatriated from the UK stated that the treatment of returnees [translation] "varies from one case to another" but added that it "has greatly improved" since 2019 following the Hirak movement (International lawyer 2023-05-19). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3.1 People Who Voluntarily Return to Algeria

Representatives of the IOM in Brussels who were interviewed by Cedoca in July 2020 describe the procedure followed for the voluntary return of a repatriated person to Algeria, explaining that the IOM reserves the person's seat on a commercial airline and they travel as standard passengers, but when they require a laissez-passer (a travel document replacing a passport, valid for 48 hours), the person concerned must present the IOM's reservation to the Embassy of Algeria in Belgium to receive one (Belgium 2020-12-03,

7, 9). The same source reports that IOM officers in Belgium make the return arrangements with the person concerned and accompany them until they leave the arrival airport in Algeria, but do not intervene during security checks; from this point onwards, the person has one month to contact the IOM in Algeria, which will take over and start assisting with the reintegration process in the country (Belgium 2020-12-03, 7). According to the source,

[translation]

[t]he IOM has specified that [for] an Algerian who voluntarily returns to Algeria with the support of its travel services like any other traveller, no trace of forced repatriation appears in their passport. The organization also stated that it never shares information with embassies about the fact that one of their nationals has applied for international protection in Belgium. (Belgium 2020-12-03, 7–8)

The US Department of State's *Country Reports on Human Rights Practices for 2022* also indicates the following:

The IOM led an *Assisted Voluntary Return and Reintegration* program to help migrants return to their homes [in Algeria] willingly with economic and social support, including personalized professional training and other socioeconomic assistance.

Although the [Algerian] government was not a financial donor to the initiative, it did cooperate. (US 2023-03-20, 25)

The lawyer in Algeria stated that Algerian citizens who return to the country voluntarily using an official route with their valid passport do not experience [translation] "any difficulties" either at the border crossing they enter through or the place where they decide to settle subsequently, as they are not subjected to "extensive checks" or "detailed investigations" by security services (2023-05-08).

The information in the following paragraph was provided by the international lawyer:

Any Algerian returning to the country must be questioned and investigated by the border police and/or the prosecutor's office. If their visa has expired, the returnee will be arrested upon entering Algeria, regardless of the status of their passport. Algerian citizens who leave the country are [translation] "placed on file" and are "obliged to explain themselves" to the border police upon their return if they have gone over the official time allotted for their stay abroad. People who return voluntarily on their own are "more exposed" to the risk of abuse, particularly by border police, especially since the prosecutor's office cannot automatically take up their case (International lawyer 2023-05-19).

3.2 Forcibly Repatriated Persons, Including Failed Asylum Seekers

The information in this section was provided by an adviser at Belgium's Immigration Office (Office des étrangers, OE), the government agency responsible for ensuring [Belgium English version] "the implementation of the Belgian governmental policy on the management of migration flows" (Belgium n.d.), interviewed by Cedoca in February 2020:

The OE uses commercial flights for forced returns after making departure arrangements with the Consulate General of Algeria, which can provide a valid laissez-passer free of charge for one day. The trip is direct from a Belgian airport to an Algerian airport if a laissez-passer is used, although it is possible to transit through an airport in another country if a passport is used. During the repatriation process, the OE provides the Consulate General with [translation] "[a]II information needed to identify the person concerned," including known addresses in Algeria, names of family members, telephone numbers, a photograph, fingerprints and identity or travel documents if available. However, the OE "never" advises the embassies of the concerned countries that the person

who is subject to the forced return has applied for international protection through an attempt to seek asylum in Belgium (Belgium 2020-12-03, 8, 9).

3.2.1 Treatment by Algerian Authorities of Forcibly Repatriated Persons

The information in the following two paragraphs was provided by the lawyer in Algeria:

Unless the authorities of the country of origin share this information with them, which has never yet happened to the lawyer's knowledge, the Algerian authorities [translation] "generally" have no way of knowing whether a repatriated citizen attempted to claim asylum abroad. Nevertheless, the Algerian authorities "may very well suspect" that the returnee attempted to claim asylum, as they know that the person was subject to refoulement. When a failed asylum seeker wishes to return to the country voluntarily or is forced to do so, but does not have a valid Algerian passport, the authorities of the host country will issue the person a travel document that they can use to obtain a laissez-passer from the Embassy of Algeria in the country in question, a document which generally states in clear terms that the person has been refouled, but does not provide the reason for the refoulement. Although the Algerian authorities may know that the repatriated citizen has made attempts to seek asylum abroad, the person is not "risking anything" in a judicial or political sense, as the said authorities are only interested in returnees who were the subject of proceedings before leaving or who broke the law by leaving the national territory in an irregular fashion.

When a repatriated citizen returns to Algeria under a refoulement order issued by their host country, they are automatically subject to investigations, such as having their name checked in the system and being questioned on the spot, as soon as

the person enters into contact with the security services at the first border crossing, regardless of the mode used (land, maritime or air), in order to check whether the person was the subject of an investigation or proceedings for crimes or offences committed before leaving the country or whether the person left the country illegally. If the returnee is found to already be the subject of proceedings or to have violated Article 175 bis 1 of the Penal Code by leaving the national territory by illegal means, the person is "generally" free to go and issued a summons to appear at a later date before the prosecutor in the jurisdiction of the border crossing or the person's place of residence, but may "sometimes" be temporarily detained, depending in particular on the nature of the charges against them or the public prosecutor seized of the case. In this case, the person receives a summons to appear as soon as possible before a court of competent jurisdiction to rule on their release before the trial on the merits (Lawyer in Algeria 2023-05-08).

Cedoca also reports that the OE adviser told them that checks are [translation] "possible" at the airport for returnees with a laissez-passer, but that these checks are purely administrative to verify the returnee's nationality (Belgium 2020-12-03, 9–10). However, the IOM representatives told Cedoca that "[e]very person returning to Algeria" is subject to interview when they arrive at the airport, and the interview can last between 1 hour and 12 hours, depending on the individual situation of each returnee (Belgium 2020-12-03, 10).

The information in the following paragraph was provided by the international lawyer:

The official documents used by a person who was deported from the UK to Algeria do not mention the [translation] "precise reason for their refoulement," but in order to plan the trip for the person concerned, "several informal ... exchanges" take place between the ministries of justice of the two countries during which

this subject is "inevitably discussed." A person attempting to enter the UK with a travel document suspected of being forged is "directly refouled before crossing the border"; the commercial carrier that brought the person to the UK must return the person to Algeria and disclose the reason for the refoulement to the Algerian authorities, and the person concerned is "usually prosecuted for forgery." There "was no legal framework" for the interviews that border police conducted with forcibly repatriated persons, and the security service officers "could mistreat them." For example, "[t]oday" there are agreements between the respective ministries of justice of the UK and Algeria, so that forcibly repatriated persons are no longer met by security services upon their return, but directly by the prosecutor's office of the relevant jurisdiction, which has "improved" their treatment while nonetheless increasing the likelihood of legal proceedings against them. The border police have stopped resorting to "torture" since the Hirak movement (International lawyer 2023-05-19). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The information in the following two paragraphs was provided by the doctoral student:

The Algerian authorities resort to different measures depending on the profile of the returnee. If the returnee has returned [Doctoral student English version] "by his or her own means," they "may" not be questioned by the Algerian authorities. If the person was "expelled" or "deported" from the host country, the authorities will question them as soon as they are repatriated to establish the reasons for their repatriation (for example, the expiry of their visa or a court decision). When an individual is expelled, their identity documents are "handed over to the airplane crew." When a person is deported because of "criminal behavior or suspicion of

terrorism," they may be "escorted and handcuffed on the return journey." "[P]rocedures are extremely strict" when the Algerian returnee is identified as "a foreign combatant in an armed conflict." Checking the date the returnee left the national territory (if this has been declared) is very important in the investigations conducted by the authorities, and anyone who left illegally is "liable" to a prison sentence and a fine under article 175 bis 1 [of the Penal Code].

In the case of failed asylum seekers, those who can afford an airplane ticket can return to Algeria under the pretext of other reasons for their return, but those who cannot afford one may remain illegally in the host country or "are deported, and their repatriation conditions are set out in bilateral repatriation agreements where applicable, or in embassy or consulate directives." Even if the authorities are aware of attempts to apply for asylum, officers may show "understanding" regarding the reasons that drove the person to leave Algeria. In general, "as long as they do not represent a security threat," failed asylum seekers face the same treatment from the authorities as any other repatriated Algerian. That said, "every asylum seeker has a different personal situation" and some may suffer "reprisals" on their return (Doctoral student 2023-05-26).

The program manager at IOM in Algeria stated that, according to the experience of the UN, [translation] "the welcome from the authorities is adequate" (UN 2023-05-24). The same source described three examples of treatment by the Algerian authorities based on the profile of the returnee, as follows:

1. a returnee who left [translation] "in a regular manner" and who is returning alone or accompanied by the IOM after their visa has expired; the person is checked and questioned by the judicial police (particularly with regard to the reason for departure/return, routes taken, the means of return,

information on human smugglers, etc.) upon arrival, after presenting their laissez-passer to the border police, and an investigation is launched to check whether the person is the subject of a civil or military arrest warrant before being released if no legal proceeding is initiated after a [written record] is produced and fingerprints and a photograph are taken by the forensic police;

- 2. a returnee who left irregularly and who is returning to the country accompanied by the IOM through its voluntary return program; the procedure is identical to the one set out above; and
- 3. a returnee who left irregularly and who is returning to the country unaccompanied by the IOM; the procedure is identical to the previous cases, except that the person is "informed [whether] there is a risk of receiving ... a fine in the coming weeks," and "some" may benefit from "mitigating circumstances" (UN 2023-05-24).

3.2.2 Treatment by Authorities of Friends and Family of Forcibly Repatriated Persons

According to sources, family members of persons who are returnees to Algeria do not receive any [translation] "particular treatment" (UN 2023-05-24; doctoral student 2023-05-26), or friends and family members "do not attract the attention of the authorities in general" (International lawyer 2023-05-19). However, the sources gave the following exceptions:

- if the returnee had left the country [Doctoral student English version] "illegally ... to escape from an ongoing investigation" (Doctoral student 2023-05-19);
- if the person's friends or family members helped them obtain a fraudulent travel document, they will [translation] "also be prosecuted by the Algerian authorities" (international lawyer 2023-05-19);

• if the returnee "is the subject of a threat to state security," their relatives are also subject to the "gathering [of] information relating to the acts of which the returnee is accused" by the "relevant ... authorities" (Doctoral student 2023-05-26).

The doctoral student stated that close family members of the returnee [Doctoral student English version] "are not subject to special treatment or surveillance" when the facts relating to the returnee "concern [illegal] emigration" (2023-05-26). However, the same source reported that [Doctoral student English version] "if the person has [allegedly] left the country illegally, those who helped him or her may be questioned or even convicted of participation, assistance and complicity in human smuggling" (Doctoral student 2023-05-26).

3.2.3 Treatment of Forcibly Repatriated Persons by Algerian Society

The lawyer in Algeria stated that returnees do not have [translation] "any problem adapting" when reintegrating into society and do not receive any particular treatment from society in relation to other people (2023-05-08). According to the same source, neither the returnee's inner circle nor society in general can find out whether the person was the subject of a refoulement order when that is the case, unless the person informs them, and in contexts where that happens, the people who are informed do not make a big deal of it in the [translation] "majority" of situations (Lawyer in Algeria 2023-05-08). The same source also stated that the same logic applies to the returnee's family members (Lawyer in Algeria 2023-05-08). The program manager at IOM in Algeria also noted that Algerian society remains [translation] "rather neutral" in its treatment of returnees (UN 2023-05-24).

[translation] "many difficulties" and may find themselves facing "increased mistreatment," as in the case of women who left the country to escape violence at the hands of their own family members and who are forced to live with the same family upon their return (2023-05-19). The same source also referred to cases of depression with suicide attempts following [translation] "stigmatization and ostracization" by Algerian society, which considers returnees to be "less than nothing" when their immigration plans fail (International lawyer 2023-05-19). Similarly, the doctoral student stated that [Doctoral student English version] "a returnee is badly perceived by Algerian society, because by its standards, to be rejected by a host country and to return to the country one has intentionally left behind is a double penalty" (2023-05-26). According to the same source, the perception of society creates a sense of [Doctoral student English version] "unease" in the returnee that translates into "periods of untreated depression and constant psychological distress" (doctoral student (2023-05-26).

However, the international lawyer stated that returnees face

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

- [1] Fondation Seligmann is an anti-racist and anti-communitarian organization that is based in Paris (Fondation Seligmann n.d.a).
- [2] According to International Crisis Group, the *hirak* is a [International Crisis Group English version] "largely non-violent and citizen-led movement" characterized by biweekly demonstrations,

which began in February 2019 following the announcement of President Abdelaziz Bouteflika's candidacy for a fifth term and which led to his resignation in April 2019 (2020-07-27, i, 1).

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Internet sites, including: Africa Center for Strategic Studies; Algeria – ministère de la Justice, ministère des Affaires étrangères et de la Communauté nationale à l'étranger, ministère de l'Intérieur, des Collectivités locales et de l'Aménagement du territoire, ministère du Travail, de l'Emploi et de la Sécurité sociale; Algérie-Focus; Algérie Patriotique; Al Jazeera; AllAfrica; American Institute for Maghrib Studies – Centre d'études maghrébines en Algérie; Amnesty

International; Austrian Red Cross – ecoi.net; L'Authentique; L'Avantgarde; BBC; Bertelsmann Stiftung; Le Citoyen; Le Courrier d'Algérie; La Dépêche; Deutsche Welle; El Watan; EU – EU Agency for Asylum; L'ExpressDZ; L'Expression; Fédération internationale pour les droits humains; Le Figaro; France - Office français de protection des réfugiés et apatrides; France 24; Freedom House; The Guardian; International Peace Bureau; Jeune Afrique; Journal de Montréal; Liberté; Lique algérienne pour la défense des droits de l'homme; Midi Libre; Minority Rights Group International; Le Monde; The New Humanitarian; The New Yorker, Pew Research Center; Quotidien d'Oran; Radio-Canada; Radio France internationale; Reuters; Slate.fr; Le Soir d'Algérie; Le Temps d'Algérie; Transparency International; La Tribune; Tout sur l'Algérie; TV5Monde; UN – Refworld, UNDP, UNHCR, UNICEF; US - Embassy of the US in Algeria, CIA, Library of Congress, Overseas Security Advisory Council; Voice of America; The Washington Post.

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