

Algeria (2)

[EMBARGOED FOR: 19 April 2002]

28 MAJ 2002 NWI
Antal bilag

Aktnr. 5

Public

(56)

amnesty international

31/5/02

7/5/11 - 3

Im. Fln.sekr. 2002J.nr.

29 MAJ 2002 NWI

Antal bilag

Aktnr. 2

ALGERIA

When token gestures are not enough: human rights and the Algeria-EU accord

April 2002

SUMMARY

AI INDEX: MDE 28/007/2002

DISTR: SC/CO/GR

Algeria and the European Union (EU) are due to sign a bilateral Association Agreement, in the framework of the Euro-Mediterranean Partnership, on 22-23 April 2002. The Agreement focuses on trade, economic integration, security and political dialogue, but also contains a legally binding clause obliging the contracting parties to promote and protect human rights.

If taken seriously, this human rights clause has the potential to be a tool for positive change in both Algeria and member states of the EU. As the focus of this report is Algeria, however, the document concentrates on the desperate need for improvements in the human rights situation there. Amnesty International's current concerns regarding EU countries are documented in separate reports.

The organization has identified the following serious obstacles to the potential of the Association Agreement's human rights clause being unlocked:

- 1) Algeria's continuing human rights crisis;
- 2) Algeria's failure to address the crisis;
- 3) Algeria's record of blocking scrutiny of the crisis from outside the country;
- 4) The EU's failure to implement the human rights clause in other Association Agreements effectively;
- 5) Algeria's use of the "counter-terrorism" argument to justify massive human rights violations.

This document explores these obstacles in detail and calls on the Algerian government and the EU to take measures to ensure that the human rights provisions in the



Agreement do not remain token gestures. As a matter of urgency, Algeria and the EU should put in place a mechanism to assess compliance of those provisions by all contracting parties.

KEYWORDS: IMPUNITY / ARMED CONFLICT / TORTURE/ILL-TREATMENT / FREEDOM OF EXPRESSION / UNACKNOWLEDGED DETENTION / UNLAWFUL KILLING / EXTRAJUDICIAL EXECUTION / POLITICAL VIOLENCE / HUMAN RIGHTS INSTRUMENTS / EU

This report summarizes a 15-page document (around 6,000 words), *Algeria: When token gestures are not enough: human rights and the Algeria-EU accord* (AI Index: MDE 28/007/2002) issued by Amnesty International on 19 April 2002. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other subjects is available at <http://www.amnesty.org> and Amnesty International news releases can be received by email: <http://www.web.amnesty.org/web/news.nsf/thisweek?openview>

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amnesty international

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enough: human rights and the
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ALGERIA

When token gestures are not enough: human rights and the Algeria-EU accord

INTRODUCTION

The European Union (EU) and Algeria are currently in the process of committing themselves to a binding international treaty focusing on trade, economic integration, security and political dialogue. This Euro-Mediterranean Association Agreement - as it is known - is a bilateral instrument between the 15 member states of the EU, on the one hand, and one of its Mediterranean partners, Algeria, on the other. The Agreement between Algeria and the EU is due to be signed on the fringes of the Euro-Mediterranean Ministerial Meeting in Valencia, Spain, on 22-23 April 2002.

Since the Association Agreement contains a legally binding human rights clause, the EU and Algeria are also making a clear commitment to respect human rights. The clause reinforces one of the key pledges made by the EU, Algeria and the other partners in the Barcelona Declaration of November 1995, the Euro-Mediterranean Partnership's founding document, namely to "respect human rights and fundamental freedoms and guarantee the effective legitimate exercise of such rights and freedoms".

Unfortunately, however, the same human rights clause in Association Agreements concluded between the EU and other Mediterranean countries in recent years has been largely ignored. Significantly, no mechanism has been set up, in the new framework of cooperation, to monitor and take initiatives on human rights violations in the countries party to the accord.¹

The text of the Association Agreement between the EU and Algeria sets out clearly the responsibility of both sides to further the promotion and protection of human rights in Algeria. If taken seriously, the human rights provisions in the Agreement have the potential to provide guidance towards positive change. Amnesty International is deeply concerned, however, that the context in which the Agreement is being signed will put that potential at risk.

This document aims to draw the attention of the EU to this context and to urge it to rise to the challenge of ensuring that the human rights provisions in the Association Agreement do not remain token gestures, as they appear to have done for previous similar agreements. The following serious obstacles, in particular, should be taken into consideration as a matter of urgency if the EU wants to move from being a silent witness

¹ For further details on Amnesty International's concerns on the Euro-Mediterranean Partnership, see Amnesty International's memorandum to the Euro-Mediterranean Ministerial Meeting in Valencia, Spain, 22-23 April 2002, entitled *Towards sustainable peace and security: the human rights imperative for the Barcelona process* (available on the website of the organization's EU office <www.amnesty-eu.org>).

to gross human rights abuses on its doorstep to working effectively with Algeria to secure a lasting end to the country's decade-long circle of violence:

1) Algeria's continuing human rights crisis

- Contrary to statements made by the Algerian authorities, the human rights situation in Algeria has remained largely unchanged since mid-1999. The level of violence and number of reports of human rights abuses continue to be shockingly high.

2) Algeria's failure to address the crisis

- Despite government promises in 1999 to tackle the legacy of years of conflict in the country, there has been little, if any, progress to date towards the establishment of truth and justice regarding a decade of massive human rights abuses.

3) Algeria's record of blocking scrutiny of the crisis from outside the country

- Algeria continues not to cooperate effectively with UN human rights mechanisms and imposes serious restrictions on access to the country for other independent international observers.

4) The EU's failure to implement the human rights clause in other Association Agreements effectively

- The text of the Association Agreement between the EU and Algeria, like that of other similar agreements, contains promising provisions aimed at furthering the promotion and protection of human rights in the country. However, the potential in these provisions has so far not been unlocked.

5) Algeria's use of the "counter-terrorism" argument to justify massive human rights violations

- Article 90 of the Association Agreement between the EU and Algeria provides for cooperation in the field of combating "terrorism" in conformity with international standards. The reality is, however, that measures taken by the Algerian authorities in the last decade with the stated aim of combating "terrorism" have often grossly violated international human rights standards.

Following the attacks in the United States on 11 September 2001, there must be more, not less, scrutiny of these measures and more priority given to human rights protection for all. Lasting security only comes with respect for human rights - not at their expense.

This document focuses exclusively on Amnesty International's concerns on the human rights situation in Algeria and the responsibility of the Algerian government and the EU to address this situation in the context of the Euro-Mediterranean Association

Agreement between them. The organization is keen to stress, however, that the Association Agreements between the EU and Mediterranean partners should be tools for addressing human rights violations in all contracting countries. Amnesty International's recent concerns on EU countries can readily be found on the organization's website <www.amnesty.org>.²

1) ALGERIA'S CONTINUING HUMAN RIGHTS CRISIS

A human rights crisis continues to blight Algeria. Ten years after the conflict in the country began, there is little sign that the Algerian people's suffering is coming to an end.

In 2000 Amnesty International publicly recognized that the scale of the conflict and the number of reported cases of human rights abuses had diminished markedly since the period of 1997-1998, when the outside world, previously largely unconcerned by the situation in Algeria, was awakened by the horror of a series of massacres of an unprecedented scale. The year 1999 saw the Algerian authorities, for their part, acknowledge for the first time the true scale of the tragedy and pledge to address the concerns arising from it.

Seemingly reassured, the international community has since paid scant attention to the human rights situation in Algeria. The bleak reality is, however, that there is essentially as much a human rights crisis now in Algeria as there was in the middle of 1999.

Killings

While there have been fluctuations in the level of violence in the last three years, the number of people killed each month in the context of the armed conflict has fairly consistently averaged around 200. Some of these are civilians killed by armed groups in both targeted attacks and indiscriminate bomb explosions. Some are members of the security forces, state-armed militias and armed groups killed in ambushes and armed confrontations. Other deaths are the result of extrajudicial executions and other unlawful killings carried out by the security forces and state-armed militias. As a result of official restrictions on information about such incidents, however, precise details are often impossible to obtain.

² Recent reports include:

- *Concerns in Europe: July-December 2001* (AI Index: EUR 01/002/2002);
- *Concerns in Europe: January-June 2001* (AI Index: EUR 01/003/2001);
- *Spain: Crisis of Identity. Race-related torture and ill-treatment by state agents* (AI Index: EUR 41/001/2002);
- *United Kingdom: Creating a shadow criminal justice system in the name of "fighting international terrorism"* (AI Index: EUR 45/019/2001);
- *Italy: G8 Genoa policing operation of July 2001* (AI Index: EUR 30/012/2001);
- *Portugal: "Small problems..."? A summary of concerns* (AI Index: EUR 38/002/2001).

Alarmingly, over the course of the last year, the number of civilians killed by the security forces outside the context of the armed conflict has significantly increased. The period between April and June last year saw the highest concentration of unlawful killings of civilians by the security forces. More than 80 unarmed protesters were shot dead and hundreds more were injured during demonstrations which erupted in the predominantly Amazigh (Berber) region of Kabylia in northeastern Algeria following the death of schoolboy Massinissa Guermah in the custody of the gendarmerie. Protesters were venting deep-seated anger at the authorities' apparent lack of concern about deteriorating socio-economic conditions for the majority of the population and at their use of repressive measures. Members of the security forces reportedly fired on unarmed protesters standing more than 100 metres away from them and shot others in the back after dispersing them using tear gas. The security forces' claim that they were acting in self-defence was categorically rejected by an official commission of inquiry which was ordered to look at the events. In several instances, protesters were reportedly pursued to their homes and shot dead inside. In all cases, the security forces used live ammunition when no lives were at risk and failed to take the steps required by international standards before resorting to lethal force.

Torture and secret detention

The number of reports of torture and ill-treatment by the security forces decreased markedly over the period 1998-1999, as fewer political arrests were made. Since then, however, reports have been numerous and widespread.

Amnesty International has received accounts from dozens of people arrested during the last three years, including women and children as young as 15, who have been subjected to torture or ill-treatment in custody. Many were arrested on suspicion of being linked to armed groups or of being involved in anti-government protests.

Many of these accounts mention beatings with fists, batons, belts, iron bars or rifle butts after arrest. Some have reported being whipped and slashed with sharp implements, or being strangled almost to the point of suffocation. Others have had cigarettes extinguished on their body or face, burning cigarette ash thrown into their eyes, or found themselves scorched by a soldering iron. Some victims have had electricity applied to their bodies, often to sensitive organs such as the genitals. To increase the pain, the victim's body may be soaked first of all in water. The so-called *chiffon* method of torture, in which the victim is tied down and forced to swallow large quantities of dirty water and chemicals through a cloth placed in their mouth, also appears to be common. Other male victims have reported being undressed, tied up and threatened with sexual violence.

Of particular cause for concern is the likelihood that reported cases of torture may represent only the tip of the iceberg. Human rights lawyers inside the country have told Amnesty International that many victims of torture never talk about their cases, fearing that

reporting violations will only exacerbate their predicament or expose family members to risks of human rights violations.

Cases of secret and unacknowledged detention have also continued to be reported during the last three years. Algerian law stipulates that anyone arrested and then held in custody before appearing before a magistrate - that is, in pre-arraignment detention - must be provided with all means to communicate immediately and directly with their families and to receive their visits. However, in practice detainees in this situation are routinely not only held incommunicado, but in secret and unacknowledged detention. They may also be held beyond the maximum 12-day limit for pre-arraignment detention allowed by Algerian law, which is already far in excess of that required by international standards. Efforts by relatives and lawyers to obtain information and clarification from the Algerian government and judicial authorities about the whereabouts of those held by the security forces in pre-arraignment detention continue to be in vain, as the authorities frequently deny all knowledge of the cases until after the detainees have been brought before the judicial authorities or have been released. It is during secret and unacknowledged detention that detainees are most at risk of being subjected to torture, ill-treatment or "disappearance".

Restrictions on freedom of expression

Some human rights activists have paid a heavy price for speaking out on behalf of victims and raising questions related to the state's involvement in serious human rights violations. Most recently, Mohamed Smain, President of the Relizane branch of the *Ligue algérienne pour la défense des droits de l'homme* (LADDH), Algerian League for the Defence of Human Rights, was sentenced on 24 February 2002 to one year in prison on charges of defamation against a former mayor and local chief of a state-armed militia, and eight of his militia companions. The militiamen had accused Mohamed Smain of falsely linking them to the abduction, torture, killing and "disappearance" of dozens of citizens in the *wilaya* (province) of Relizane and the disposal of bodies of victims in mass graves in the area. In his defence, Mohamed Smain stated that he was merely reporting the statements of dozens of families of the "disappeared" who say they witnessed the men abduct their relatives in front of their eyes. Mohamed Smain has appealed and, at the time of writing, remains at liberty pending a ruling by the Supreme Court on his case.

Changes to the Penal Code last year further curbed the right to freedom of expression. Amendments to the law increased penalties for individuals found guilty of defaming the President of the Republic or other state institutions such as the army, parliament or the judiciary, using the written or spoken word or an illustration. Defaming the President now carries a prison term of up to one year and a fine of up to 250,000 dinars (approximately US\$3,500). The editor and publisher of an offending article or illustration, as well as the publication itself, are liable to be prosecuted.

The legislative amendments have already been used to intimidate the press. In the first quarter of 2002, several journalists from private daily newspapers were called in for questioning by the police for allegedly defaming the military through their writing or cartoons, following complaints by the Ministry of Defence under the new articles of the Penal Code.

Human rights organizations, autonomous trade unions and non-governmental organizations which criticize or oppose the policies and actions of the government also continue to face a range of problems and restrictions in their work. Some, such as the Association of Families of the Disappeared of the Province of Constantine, continue to be refused legal registration by the national or local authorities. In November 2001, the UN Committee on Economic, Social and Cultural Rights expressed its concern "that an authorization is required from the Ministry of Labour for the establishment of new independent trade unions outside the recognized *Union Générale des Travailleurs Algériens* (UGTA)".³

2) ALGERIA'S FAILURE TO ADDRESS THE CRISIS

Following his election in April 1999, President Abdelaziz Bouteflika pledged to tackle the legacy of years of conflict in the country. Three years on and a decade after the killings began, there has unfortunately been little, if any, progress towards the establishment of truth and justice in the country, despite Algeria's obligations under domestic law and international human rights standards. The failure to expose the facts surrounding a decade of massive human rights abuses perpetrated by the security forces, state-armed militias and armed groups has meant that lessons have not been learnt and that the abuses have not been prevented from recurring.

Tens of thousands have been killed in the violence and hundreds of thousands more have been wounded in violent attacks, tortured or suffered the agony of losing a family member since the current conflict began in 1992. Yet, in the overwhelming majority of cases, the authorities have failed to take concrete steps to clarify the truth about these human rights abuses and to bring to justice those allegedly responsible. In cases where the authorities state that they have conducted investigations, the lack of transparency about the procedures and the unwillingness to provide the families of the victims with the details of the investigation and to make the findings public have fomented serious concerns about the administration of justice in the country.

No effective action is known to have been taken by the authorities to clarify the fate of some 4,000 men and women who "disappeared" after arrest by members of the security

³ Concluding observations of the Committee on Economic, Social and Cultural Rights : Algeria. 30/11/2001. E/C.12/1/Add.71.

forces or state-armed militias, although the earliest "disappearances" date back to 1993. The authorities claim to have clarified several hundred complaints of "disappearances" received by families of the "disappeared". However, they have given no indication that these "clarifications" are based on anything other than comments on the complaint received from the security forces implicated in the act, despite the wealth of evidence available which could form the basis of a comprehensive investigation. Furthermore, despite undertakings to do so, the authorities have consistently failed to provide families of the "disappeared" or Amnesty International with the names of the "clarified" cases.

No concrete steps are known to have been taken either to investigate information provided by families about the alleged burial place of relatives who had been abducted and killed by armed groups, but whose bodies were never found.

Where inquiries have been initiated, they have time and again either not been completed or not been followed up. Amnesty International welcomed the establishment of an official commission of inquiry to look into the killing of civilians by the security forces in the context of demonstrations in April to June last year. The preliminary report which was published in July 2001 concluded, significantly, that the gendarmerie and other security forces had repeatedly resorted to excessive use of lethal force. Announcements by the authorities in October that the individuals responsible for the killings would be brought to justice have, however, not been followed up. The commission was forced to concede in its final report of December 2001 that it could not complete its mission because many witnesses were too afraid to speak to them. According to the authorities, some 25 members of the gendarmerie are currently detained awaiting trial on charges of murder and firearms abuse in the context of the demonstrations in Kabylia. However, 12 months on from the start of last year's wave of killings in the region, no member of the security forces is known to have been prosecuted for unlawful killings or other human rights violations.

Although the scale of the conflict has been markedly lower in the period since 1998-99 compared to previous years, the problem of impunity has increased in that time. Immunity from prosecution - a privilege which had been and continues to be enjoyed almost universally by members of the security forces and state-armed militias - has been conferred on members of armed groups who may have been responsible for killings, torture and other grave human rights abuses. A presidential amnesty on 10 January 2000, for example, granted around 1,000 members of certain armed groups exemption from prosecution, following a secret agreement between the army and the armed groups concerned.⁴

⁴ For further details on the problem of impunity, see Amnesty International's November 2000 report *Algeria: Truth and justice obscured by the shadow of impunity* (AI Index: MDE 28/11/00).

3) ALGERIA'S RECORD OF BLOCKING SCRUTINY OF THE CRISIS FROM OUTSIDE THE COUNTRY

The overwhelming difficulties faced by Algerian victims trying to obtain redress for their grievances at a local or national level have meant that many have had a particular interest in making their pleas for truth and justice known outside the country. In April last year, for instance, former Defence Minister Khaled Nezzar cut short a visit to Paris to promote his memoirs after learning that three criminal suits for torture had been filed against him in France.

Unfortunately, successive governments have not only failed to take the necessary measures to ensure that thorough, independent and impartial investigations are carried out into grave human rights abuses, but have repeatedly blocked the attempts of international governmental and non-governmental organizations to scrutinize the human rights situation in the country.

The Algerian authorities have, in particular, failed to cooperate effectively with UN human rights mechanisms. The UN Working Group on Enforced or Involuntary Disappearances, which asked in 2000 to visit Algeria, has, according to Amnesty International's information, still not been granted access to the country. Long-standing requests by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions and the UN Special Rapporteur on torture to visit Algeria have similarly not resulted in invitations.

In August 1998 the UN Human Rights Committee made a series of recommendations to the Algerian authorities after considering the government's report on actions taken to fulfil its obligations under the International Covenant on Civil and Political Rights (ICCPR).⁵ Nearly four years on, the key recommendations have not even begun to be implemented. The Human Rights Committee gave its expert advice on how Algeria could address killings, torture and ill-treatment, arbitrary arrests and secret detention, and "disappearances", problems which continue to blight the country. It urged Algeria, for instance, to set up "independent mechanisms ... to investigate all violations of the right to life and security of the person", "a credible system for monitoring treatment of all detainees so as to ensure that they are not subject to torture or to cruel, inhuman or degrading treatment" and "a central register to record all reported cases of disappearances and day-to-day action taken to retrace the disappeared, and to assist the families concerned to retrace the disappeared". "[I]n all cases of massacres", the Committee urged Algeria "to conduct an independent enquiry into the conduct of the security forces, from the lowest to the highest levels, and where appropriate, to subject them to penal and disciplinary sanctions".

⁵ Concluding observations of the Human Rights Committee : Algeria. August 1998. CCPR/C/79/Add.95.

The victims of Algeria's continuing human rights crisis are paying the price of the authorities' failure to take effective action with respect to these recommendations.

The International Committee of the Red Cross has been allowed to continue the visits it resumed in 1999 to civilian detention centres. This is an important step in the right direction. However, international human rights organizations face serious restrictions on entry to the country. Despite repeated attempts to send a delegation to Algeria in 2001, Amnesty International has not been permitted to visit the country to conduct fact-finding visits or hold talks with officials or non-governmental associations since November 2000. The organization was able to visit on two occasions in 2000, but beforehand had been denied entry to Algeria since mid-1996. Other international human rights organizations have also been unable to gain access for at least a year. Foreign journalists seen as having a critical attitude towards the Algerian authorities generally continue to be denied visas to enter the country.

4) THE EU'S FAILURE TO IMPLEMENT THE HUMAN RIGHTS CLAUSE IN OTHER ASSOCIATION AGREEMENTS EFFECTIVELY

The Association Agreement between the EU and Algeria includes a human rights clause which has appeared in all Association Agreements concluded between the EU and those countries participating in the Euro-Mediterranean Partnership. To date Association Agreements with Israel, Morocco, the Palestinian Authority and Tunisia have come into force. Agreements with Egypt and Jordan have been signed, and one with Lebanon is due for signature soon. Negotiations are ongoing with Syria.

The clause appears in the Association Agreement between the EU and Algeria as Article 2, as it does in all the other Association Agreements, and holds that:

*"Respect for the democratic principles and fundamental human rights established by the Universal Declaration of Human Rights shall inspire the domestic and external policies of the parties and constitute an essential element of this Agreement."*⁶

A pattern of widespread and systematic violations of international human rights standards by any party clearly constitutes a material breach of the Agreement. As a binding treaty on the EU and the partner country, the human rights clause constitutes an international legal commitment by the contracting parties to respect human rights.

The European Commission last year commented on the importance of human rights clauses as an essential element of cooperation and gave its interpretation of what they

⁶ This and all other quotations from the Association Agreement between Algeria and the EU are translations by Amnesty International of the original French text.

should include in practice. The Commission communication *The EU's role in promoting human rights and democratisation in third countries*, published on 8 May 2001, stated, in particular, that:

"[E]ssential elements clauses [such as Article 2] ... are meant to promote dialogue and positive measures, such as joint support for democracy and human rights, the accession, ratification and implementation of international human rights instruments where this is lacking ... Discussions between the Commission and the partner country should in particular be linked to the establishment of the EC's [European Community's] assistance programme. The dialogue should encourage partner governments to pursue the objective of peace and stability as an integral part of their development plans, and identify opportunities for EC assistance to contribute to those objectives. Discussions should consider how ratification of the fundamental human rights instruments and of other rights-based international agreements ... and their effective implementation could be pursued, together with consideration of how UN recommendations should be followed up."

The Council of the European Union, which groups together the Ministers of Foreign Affairs of the 15 EU member states, endorsed this communication by the Commission in its Conclusions of 25 June 2001.

The Association Agreement between the EU and Algeria contains other elements which could help further the promotion and protection of human rights in Algeria. Article 82 stipulates, for instance, that:

"In their cooperation in the domain of justice and domestic affairs, the parties shall attach particular importance to strengthening institutions in the domains of the application of the law and the administration of justice. This includes consolidating the rule of law."

Given the Algerian authorities' sustained and serious disrespect for their international human rights obligations, there is an urgency for the potential contained in these human rights provisions in the text of the Agreement to be unlocked in a way that they have not been for similar Association Agreements with other Mediterranean partners.

The example of Tunisia, the first country where a Euro-Mediterranean Association Agreement with the EU came into effect since the launch of the Euro-Mediterranean Partnership, has constituted a dangerous precedent. It has been indicative of the problems associated with the failure by the EU to develop mechanisms to monitor the human rights situation in Mediterranean partner countries or to put in place mechanisms to ensure respect for the human rights clause.

Since 1 March 1998, when the Association Agreement came into effect, the human rights situation in Tunisia has deteriorated.⁷ Adding its voice to that of domestic and international human rights organizations, the European Parliament adopted two resolutions in 2000 and one in March 2002 expressing its concerns about the degradation of the human rights situation in Tunisia. Despite these resolutions and despite the promising statements of principle contained in the text of the Agreement and interpretations of those statements by EU bodies, the EU has so far failed to discuss with Tunisia tangible steps which could be taken to improve the human rights situation in the country.

5) ALGERIA'S USE OF THE "COUNTER-TERRORISM" ARGUMENT TO JUSTIFY MASSIVE HUMAN RIGHTS VIOLATIONS

Article 90 of the Association Agreement between the EU and Algeria provides for cooperation in the field of combating "terrorism". This is the first time such an article has appeared in an Association Agreement between the EU and a Mediterranean country.

Amnesty International recognizes the duty of states under international human rights law to protect their populations from violent criminal acts. It is imperative, however, that such measures are implemented within a framework of protection for all human rights. Article 90 appears to acknowledge the importance of this principle, when it stipulates that any measures taken in the context of cooperation on combating "terrorism" must be taken by the contracting countries "respecting the international conventions to which they are party".

The reality is, however, that measures taken by the Algerian authorities in the last decade with the stated aim of combating "terrorism" have often grossly violated international human rights standards. Of particular cause for concern is that, despite this, the Algerian government has repeatedly indicated that it feels its "counter-terrorism" approach has been vindicated since the attacks in the United States of America on 11 September 2001. It has clearly been encouraged in this regard by an international climate in which some governments have advocated the promotion of security at the expense of human rights.⁸ The EU must be vigilant that any cooperation with Algeria on combating "terrorism" upholds agreed and shared basic standards of human rights.

⁷ See the joint document of 18 October 2001 by Amnesty International and eight other human rights organizations entitled *The continuing deterioration of the human rights situation in Tunisia* (AI Index: MDE 30/031/01).

⁸ For further information on this problem, see the report *Rights at risk: Amnesty International's concerns regarding security legislation and law enforcement measures* of 18 January 2002 (AI Index: ACT 30/002/2002).

In its report to the UN Security Council's Counter-Terrorism Committee⁹ set up in the wake of the 11 September 2001 attack, the Algerian government gives an account of how it believes that the measures it has taken with the stated aim of combating "terrorism" have been shown to be the correct ones. In the report, dated 24 December 2001, it states:

"Algeria attaches great importance to Security Council resolution 1373 (2001) ... since it perceives the present international team effort as corroborating its own consistently argued position on the nature of terrorism and its global implications."

The report goes on to present an overview of national measures taken "to prevent and combat terrorism". What Algeria was not required to detail was the appalling impact of these measures on human rights in the country during the last decade.

Some of the measures applied in this framework have constituted human rights violations in themselves or facilitated those violations. Legislative amendments from 1992 defining "a subversive or terrorist act" in the loosest of terms have led to the imprisonment of hundreds of people detained in connection with belonging to or perceived as supporting the banned political party *Front islamique du salut* (FIS), Islamic Salvation Front. The equally loose definition of "encouraging terrorist activities" in the Penal Code has led to the imprisonment of people such as human rights lawyers who have represented in court clients suspected of being linked with armed groups.

Legislative changes from 1992 increased the time limit that suspects in crimes categorized as "acts of terrorism or subversion" could be held in the custody of the security forces before appearing before a judge to a maximum of 12 days. Although the provisions are themselves in violation of international standards,¹⁰ they would at least provide some level of safeguard if they were not almost systematically violated. The result has been a shockingly high occurrence of cases of torture and "disappearance" of people arrested on suspicion of being linked to armed groups. Since 1992 thousands have been tortured and around 4,000 have "disappeared".

In May 1999, the Arab Convention for the Suppression of Terrorism, to which Algeria is a state party, came into force. Amnesty International believes that the Convention

⁹ Formally known as the UN Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism. Resolution 1373 was adopted by the UN Security Council on 28 September 2001.

¹⁰ See, for instance, Article 9 of the International Covenant on Civil and Political Rights; Principle 7 of the UN Basic Principles on the Role of Lawyers; and Principle 17 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

presents a serious threat to human rights in all Arab countries,¹¹ but, significantly, the extent to which it has been implemented and its impact on human rights have not been made known by the Algerian authorities.

“Counter-terrorism” measures have not only facilitated human rights violations, but have also been used by the authorities to attempt to mask them. Perhaps the most striking example of this has been the explanation given to dozens of families who have complained about the “disappearance” of a relative after arrest by the security forces. Instead of opening judicial proceedings into the case on the basis of the complaint, the authorities have in dozens of cases told the family that their relative is “believed to have joined a terrorist group and is sought by the security forces”, despite the fact that in many of these cases the family witnessed the arrest themselves in their own home.

Article 85(4) of the Association Agreement between Algeria and the EU stipulates that “existing mechanisms ... of extradition” shall be reinforced. The Algerian authorities have repeatedly declared that they are seeking the return of individuals who they claim are wanted for “terrorist crimes” and who have been granted asylum abroad. In their report to the UN Security Council’s Counter-Terrorism Committee, the authorities complain that “the various terrorism-related extradition requests transmitted by Algeria have yet to meet with a favourable outcome”. Amnesty International believes that it is fundamental to ensure that, in the context of any cooperation on extradition, no one is returned to Algeria who will be at risk of suffering serious human rights violations.

RECOMMENDATIONS

to Algeria and the EU:

Once the Association Agreement is signed, Algeria and the EU should put in place a mechanism to regularly assess compliance with Article 2 by all contracting parties. This assessment should feature prominently on the agenda of meetings of the Association Council and other bodies which will be set up to monitor the workings of the Agreement, from the beginning.

With particular regard to the human rights situation in Algeria, such a mechanism should:

- regularly and impartially monitor developments in the field of human rights in Algeria, giving particular scrutiny to what are termed “counter-terrorism” measures and their conformity or otherwise with international human rights standards;

¹¹ See Amnesty International’s report *The Arab Convention for the Suppression of Terrorism: a serious threat to human rights* (AI Index: IOR 51/001/2002).

- make appropriate approaches towards the Algerian authorities, such as urging them to grant access to the country to UN human rights experts, particularly the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on extrajudicial, arbitrary or summary executions and the Special Rapporteur on torture, who all have requests pending to visit, as well as to international human rights organizations and other observers;
- issue specific recommendations, compliance with which can be regularly assessed according to concrete benchmarks and measurable goals, that are aimed at improving the human rights situation in Algeria and at preventing human rights violations from recurring, and that take into account the recommendations made by UN human rights bodies, particularly the unimplemented recommendations of the UN Human Rights Committee from 1998 and of the UN Committee on Economic, Social and Cultural Rights from 2001.

The EU and Algeria should make public an annual report accounting for the joint steps taken to ensure compliance with their commitments made under Article 2.

to Algeria, in particular:

Once the Association Agreement between the EU and Algeria comes into force, Article 82 will oblige Algeria to work towards "consolidating the rule of law". Currently in Algeria, a systematic failure to conduct investigations in a full, impartial and independent manner and an entrenched culture of impunity mean that the rule of law is severely weakened.

Amnesty International calls on the Algerian authorities to address this problem by implementing recommendations the organization has made to them repeatedly over the last decade. The organization urges them, in particular, to:

- ensure that prompt, thorough and independent investigations are conducted into all violations of the right to life and that the alleged offenders are brought to justice in proceedings which meet international fair trial standards;
- set up an independent and impartial commission of inquiry to investigate the thousands of killings, "disappearances", reports of torture and other human rights abuses committed since 1992 by the security forces, state-armed militias and armed groups;
- make public the methods, findings and conclusions of all investigations which they claim have been conducted, and what follow-up measures have been taken accordingly;
- bring to justice anyone reasonably suspected of being responsible for human rights abuses in proceedings which meet international standards for fair trials;

- respect the right to freedom of expression, including the right to seek, receive and impart information and ideas relating to human rights;
- clarify the extent to which the Arab Convention for the Suppression of Terrorism, as well as other legal instruments on "counter-terrorism" to which Algeria is a state party, are being implemented and what impact they have had on the enjoyment of human rights.

