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ASYLUM AND MIGRATION IN THE MAGHREB

2012



COUNTRY FACT SHEET:
ALGERIA

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Euro-Mediterranean Human Rights Network
Vestergade 16 – 1456 Copenhagen K – Denmark
Telephone: + 45 32 64 17 00 – Fax: + 45 32 64 17 02
Website: www.euromedrights.org

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Introduction

At the end of 2010 and beginning of 2011, North Africa experienced protests which sparked off an unprecedented series of protest movements through the region. These movements have forced almost a million people to flee to neighbouring countries, such as Tunisia, Egypt, and Algeria – the latter also facing regular migratory inflows from sub-Saharan Africa consisting of both refugees and migrants.

While Algeria remains, in spite of its improved financial situation, a country characterised by emigration, it is slowly but surely becoming a country of immigration as well. Why these migrants settle in Algeria is explained by the tightening of EU migration policies, the extension of territories covered by the Schengen agreement, and the global financial crisis which has caused a recession in a number of western countries. But it is also explained by the improvements Algeria has enjoyed over a number of years, with everything that this implies for migrants – mainly from Mali and Niger – such as work opportunities that are no longer available in their own countries.

According to statistics issued by the CISP (Comité International Pour le Développement des Peuples) - International Committee for the Development of People - 70 per cent of migrants settle permanently in Algeria. The rest are either: transiting in the country and hoping to settle in Europe, trying to return to their country of origin but lacking the means to do so, or seeking refugee status.

More men than women are involved in this migration from sub-Saharan Africa to Algeria, which mainly consists of young men in their mid-20s. However, recent years have indicated an increased feminisation of this migration as well. It is difficult to obtain exact figures for this population group, however the research undertaken by the CISP indicates that there are between 60,000 and 85,000 sub-Saharan migrants living in Algeria, of which 26,000 are irregular. The number of arrests of illegal migrants in 2007 was of 7824, and this number has since then increased.

The people of Mali and Niger, and Algerians from the far south, the Tuareg, for their part, have always moved about freely in the greater Sahara region and as, as an independent state, Algeria formalised this freedom of movement over its territory by providing it with a legal framework. Bilateral treaties have consequently been

signed permitting the people of Mali and Niger to enter Algeria and stay there for a period of 90 days without any requirement for a visa.

Legal texts

Although Algeria signed the Geneva Convention relating to the rights of refugees in 1963 and the UN Convention on the Protection of Migrant Workers in 2004, it still lacks legislation relating to migration and asylum in Algeria, with the exception of a law covering the entry, stay, and movement of foreigners in Algeria. This legislation remained unchanged between 1966 and 2008 and Law n° 08-11 dated 25 June 2008 aligns Algerian legislation with Tunisian and Moroccan legislations on migration. Containing 52 articles, it imposes severe penalties for illegal migration, as much upon the migrant as upon anyone transporting, employing, helping, or giving him/her lodging.

Article 132 of the Algerian constitution states that any treaty ratified by Algeria ranks higher than the law. However, the Algerian authorities often refer only to the law n° 08-11 relating to the conditions of entry, stay and movement of foreigners.

The specific provisions that exist for migrants and how these are applied in practice

Unfortunately, no provision is made for migrants in Algerian law on, above all, questions related to their access to justice, healthcare, work, or accommodation. The only rules that are applied are the law relating to foreigners with respect to entry and stay in Algeria, and the Code of Medical Ethics for access to health care.

Migrants are often arrested during identity checks in the street, or when the authorities descend upon where they live, and are then prosecuted for entry and illegal stay on Algerian territory in accordance with articles 4-7-8-9-44-45 of law n° 08-11. The judgements handed down in these cases include suspended sentences of between 2 to 6 months' imprisonment, sometimes accompanied with an expulsion order, although this measure is not within the powers of the judge but of the Minister of the Interior, according to article 30 of the same law. Expulsion is usually applied to migrants who commit repeated offences or those who commit serious crimes or disturb the public peace. As to the remainder, they are set free after they have gone through Police Headquarters, and they are given an order to leave Algerian territory within a fifteen day deadline.

In spite of the implementation and application of the law on foreigners, health care remains accessible to migrants in all Algerian hospitals. This is largely linked to the fact that access to health care is virtually free of charge.

By contrast, migrants working in the informal sector have no access to welfare benefits given employers want to remain discreet about their hiring practices. Even when their employers want to hire them officially, the law prohibits the recruitment of foreigners who do not have a work permit. The only advantages enjoyed by legal foreign workers, for their part, are those guaranteed by the social security system (reimbursement of healthcare costs). However, they have no right to social housing, and various other services.

Advocacy by associations in Algeria

An increase in advocacy has been noticeable over the past few years amongst certain associations in Algeria – such as the Algerian League for the Defence of Human Rights (Ligue Algérienne de défense des droits de l’Homme) and SNAPAP. Advocacy is centred around a number of issues such as: the application of international conventions ratified by Algeria, combating discrimination suffered by migrants when accessing their rights, and the reduction of police pressure on migrants and healthcare workers, particularly in healthcare establishments. At the same time, a greater involvement by associations in providing assistance to migrants has been noticeable, as well as the facilitation of contacts between associations and authorities due to awareness-raising work carried out by UNHCR with police forces about the work of UNHCR, the documents it issues, and the 1951 Convention. This has contributed to a reduced number of arrests of refugees in urban areas, although initial contact with the authorities has not always been easy.

Conclusion

The presence of sub-Saharan migrants in Algeria is not a temporary phenomenon but rather one that is structural and imposed by cross-border (also called alternating) migration and bilateral agreements between Algeria and neighbouring countries.

Additionally, the transit of sub-Saharan Africans through the country is linked to a series of disruptions in the functioning of the labour market at the south of Algeria, and localised social, political, economic and even climatic crises in migrants’ countries of origin. As such, managing this kind of migration goes far beyond the straightforward management of border control. For the moment, the main beneficiaries of this “in-transit” migration and uni-dimensional approach to migration management are, unfortunately, the vast smuggling networks in Africa and Europe, often at the cost of migrants and refugees themselves.

This irregular and permanent migration, constantly on the rise, is the fate of all those not only fleeing poverty and armed conflict in the Sahel, but also of

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those who have become disheartened by vain attempts to reach Europe and resign themselves to settling permanently in the Maghreb, for want of anything better. Those who increasingly seek to settle in the Maghreb, and in particular in Algeria, are particularly those from neighbouring countries, and they constitute an older population of migrants (over 40 years). A clear tendency, therefore, can be seen towards an increasingly stable immigration into the Maghreb, with the region as a whole transforming into a destination, and not only a transit area, for many migrants and refugees from Sub-Saharan Africa.

General Framework

Ratification of International Instruments

Convention of 1951 / Protocol of 1967: Yes

Algeria ratified the Convention in 1963 and the Protocol in 1997, without reservation.

International Convention on the Protection of the Rights of All Migrant Workers: Yes

Algeria ratified the Convention, but with reservations on article 92 paragraph 1. Algeria ratified the Convention by presidential decree n° 04-441 dated 29 December 2004, published as No. 2 for the year 2005 dated 5 January 2005 in the Official Journal of the People's Democratic Republic of Algeria.

According to information issued by Algeria in its report to the Committee on the Rights of Migrants Workers, this ratification in "2004 should bring about important changes, notably in the Labour Code and the law on the employment of foreigners in Algeria." (CMW/C/DZA/1 dated 22 July 2008, para. 6). "The process of adapting the Algerian legislative framework to international conventions has largely begun. It should soon result in the integration of international regulations into national legislation." (Id., para. 5)

Recognition of the competence of the Committee on the Rights of Migrant Workers:

Communications from third party States (article 76)	No
Communications from individuals (article 77)	No

The position re: submission of periodic reports

Algeria submitted its initial report to the Committee in 2008. This document, dated 22 July 2008, has the classification: CMW/C/DZA/1 of 22 July 2008.

Algeria presented its initial report to the Migrant Workers' Committee in Geneva on 26 and 27 April. The EMHRN was present at this public presentation and heard the

explanations of the Algerian delegation from Algiers about the implementation of the Convention on the protection of migrant workers in Algeria. These are summarised in the press release published by OHCHR in French¹ and English² after the sessions were over. The conclusions and recommendations of the Committee are available on the Committee's website; click on "Algeria."³

Cooperation with the Special Rapporteur on the Human Rights of Migrants

As of November 2012, Algeria had made no open invitation with respect to the UN special procedures. For his part, the Special Rapporteur on the Human Rights of Migrants has not made any request to the Algerian authorities to visit the country. In fact the Special Rapporteur had not yet made any official request to the authorities about human rights violations against migrants.

Other relevant instruments

International conventions on human rights that this country has ratified or agreed to:

- | | |
|--|-----|
| » ICCPR | Yes |
| » ICESCR | Yes |
| » CEDAW | Yes |
| With reservation in respect of articles 2(9)§2, 15§4, 16 and 29§1 | |
| » CIDE | Yes |
| (with reservation in respect of article 14 para. 1 and 2, and articles 13-16-17) | |
| » CAT | Yes |
| And declaration recognising the competence of the Committee Against Torture to receive and examine communications presented by or on behalf of individuals (article 22 of the CAT) | |
| » CERD | Yes |
| And declaration relating to article 14 of the CERD to receive and examine communications from individuals or groups | |

Optional Protocols

- | | |
|---------------|-----|
| » ICCPR - 1st | Yes |
| » ICCPR - 2nd | No |

¹ <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=9989&LangID=F>

² <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=9989&LangID=F>

³ <http://www2.ohchr.org/english/bodies/cmw/sessions.htm>.

» ICESCR	No
» CAT	No
» CEDAW	No

International Labour Organisation

Migration for Employment Convention, 1949 (N° 97)
(On 19 October 1962, but excluding the provisions of annex II.) Yes

Migrant Workers Convention, 1975 (N°143) No

Fundamental ILO conventions not yet ratified: None

Algeria has ratified the 8 fundamental ILO conventions:

- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87): 19/10/1962
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98): 19/10/1962
- Forced Labour Convention, 1930 (No. 29): 19/10/1962
- Abolition of Forced Labour Convention, 1957 (No. 105): 12/06/1969
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111): 12/06/1969
- Equal Remuneration Convention, 1951 (No. 100): 19/10/1962
- Minimum Age Convention, 1973 (No. 138): 30/04/1984
- Worst Forms of Child Labour Convention, 1999 (No. 182): 09/02/2001

African Union

OUA Convention Governing the Specific Aspect of Refugee Problems in Africa Yes

By Regulation n° 73-34 dated 25 July 1973 ratifying the Convention.

General comments

Algeria's international commitments provide a complete legislative framework enabling the human rights of migrants, refugees and asylum seekers to be guaranteed. They open the way for victims of human rights violations and their representatives to appeal to international organisations in the event of any violation (Human rights committee, CAT, CERD, special procedures).

A. Asylum

A.1. De Jure

Principal texts governing the status of refugees and asylum seekers

The Conventions on asylum (1951 Convention and OAU Convention) make up a positive element of Algerian law because article 132 of the Constitution states that *“the treaties ratified by the President of the Republic, as set out in the Constitution, take precedence over the law.”* There is no specific provision about asylum in the Constitution, beyond article 69, which prohibits the extradition of refugees: *“In no case can a political refugee, legally entitled to the right of asylum, be handed over or extradited.”*

As a supplement to article 132 of the Constitution, the Constitutional Council has declared that: *“Considering that after its ratification and as from its publication, any convention becomes integral to national law and, in application of article 132 of the Constitution, acquires precedence over other law and permits Algerian citizens to give it prevalence over decisions of the judiciary, such is the case specifically of the 1966 UN covenants approved by law n°89-08 dated 25 April 1989 and to which Algeria became party by presidential decree n° 89-67 dated 16 May 1989, and also of the African Charter on Human and Peoples' Rights ratified by decree n°87-37 dated 3 February 1987, these legislative instruments formally prohibiting discrimination of any kind”* (decision n°1/D.LCC/89 dated 20 August 1989 relating to the Electoral Code).

An asylum seeker and a refugee in Algeria must therefore be able to benefit from the protection offered by article 13 of the international Covenant relating to civil and political rights (*“An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority”*) since he is *“an alien lawfully in the country.”*

In effect, although the law of 25 June 2008 relating to conditions of entry, stay and

movement of foreigners in Algeria puts various conditions on access to the territory (see below), it excludes asylum seekers and refugees from the regulations about entry into the territory (article 7) and from the principal of expulsion of foreigners who have entered or stayed illegally in the country (article 42).

Decree n° 1963-274 dated 25 July 1963, setting out how the 1951 Geneva with respect to the status of refugees is to be applied, established the BAPRA (Bureau algérien pour les réfugiés et les apatrides) - the Algerian Office for Refugees and Stateless Persons - in order to guarantee legislative and administrative protection for refugees and stateless persons and ensure the implementation of the 1951 Convention. This is the Algerian institution with the responsibility to recognise refugee status *“for any person coming within the mandate of the UN High Commission for Refugees or who matches the definitions set out in the first article of the aforementioned Convention of 28 July 1951.”* So that BAPRA can carry out this task, the 1963 decree makes provision for the creation of an appeals commission bringing together representatives from three ministries (Justice, Foreign Affairs, and Work and Social Affairs) and UNHCR. In practice however, the authorities have not asked the UNHCR to appoint representatives to this commission. The role of this institution is explained below.

A.2. De Facto

There are three classes of refugees and asylum seekers in Algeria:

- **The Sahrawi:** arriving from Western Sahara in 1975 and 1976, they have been living since then in camps in Tindouf in the south west of the country. According to the Algerian authorities, they represent 165,000 people who are recognised as refugees. They make up the majority of refugees in Algeria and are not within the scope of this research: many matters specific to their history and their situation lead them to be in a distinctly different situation than other categories of refugees.
- **Sub-Saharan Africans:** these are nationals from the Democratic Republic of the Congo (DRC), Cameroon, Ivory Coast, Liberia, and Nigeria.
- **The remainder: Palestinians, Iraqis, Syrians...:** In January 2012, there were 4020 Palestinian refugees in Algeria according to the most recent UNHCR statistics presented in the UNHCR's Global Appeal (2012-2013). Because of the fact that they can get into Algeria without a visa, many of them have not contacted UNHCR. Nevertheless, the UNHCR has a few open files on some who are seeking a permit to stay as students. In its 2012 Country Operation

Profile – Algeria⁴ UNHCR indicates that there is an unquantified number of Iraqi refugees living in Algeria as well, but they are well integrated.

The BAPRA (Algerian office for refugees and stateless persons), set up in 1963 on the basis of the decree mentioned above (section A.1), answers to the Ministry of Foreign Affairs. Although it has the powers to decide upon asylum requests and recognise refugee status for those recognised as such by UNHCR, recognition rates for sub-Saharan asylum seekers is invariably at 0%. There is no official information available about its activities and the way it works (an Internet search only revealed a training seminar on the right of asylum for its employees in 1990). When questioned by the UN migrant workers' committee in April 2010 about the procedures and criteria followed in determining refugee status, the Algerian delegation indicated that the recognition process relating to refugee status was carried out "with the assistance of UNHCR", without clarifying BAPRA's role. It also indicated that a new set of regulations was being prepared with the purpose of overhauling this institution and redefining its remit, without however identifying what the expected changes related to or the time period within which the regulations would be adopted.

According to information obtained from sub-Saharan refugees, the asylum seeker has to fill in a form in which he has to specifically explain the reasons that have persuaded him to leave his country. Until the mid 2000's, the applicant was then interviewed by an employee from BAPRA, but it seems that this no longer occurs. In principle, BAPRA would send the file to the Police, who then would contact the asylum seeker in order to register his/her data, including fingerprints. Consequently, the BAPRA would make a decision on the application and send this decision to UNHCR, which would notify the asylum seeker.

BAPRA decisions about demands for asylum by nationals from sub-Saharan countries do not have to be accompanied by supporting explanations in the case of a rejection. The fact that the UNHCR representation in Algiers has recognised their status as refugees under the 1951 Convention and has provided them with a refugee card does not affect the decision. All refugees and asylum seekers from sub-Saharan Africa therefore remain illegal migrants so that the provisions of the law of 25 June 2008 which protected them from obligations linked to entry into the territory (article 7) and the penalty of 2 to 5 years imprisonment in the case of an expulsion (article 42) are inoperative for this category of refugee.

⁴ <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e485e16>

A.3. The Role of the UNHCR

Are there one or more HCR offices in the country? Yes

The UNHCR has an office in Algiers and a branch and field office in Tindouf, which is in charge of matters related to Sahrawi refugees.

Identify when these offices began their work and supply their address and telephone numbers:

Since 1979, there has been an Honour Representation of UNHCR in the country. Its offices officially opened in 1985, but at the end of 2007⁵, it was the target of an attack (see UNHCR press release of 11 December 2007). Only since July 2008 have activities resumed and only in 2009 did they regain their normal pace.

Contact details:

Office in Algiers
128 chemin Bachir El-Ibrahimi Poirson,
El-Biar
Algiers
+213 21 92 40 90

Office in Tindouf
89 - 90 Rue Moussani
Tindouf
+ 213 49 92 3555 and + 213 49 92 3265

Does HCR enjoy an official legal status allowing it to operate in that country? Yes

In 1984, a host country agreement was reached with the Algerian State.

Access to the asylum process:

The UNHCR representation in Algiers and the freedom of movement of its staff within the country are subject to authorisation by the Algerian authorities (issue of a “security clearance”). Its representatives regularly go to other towns but not to the south of the country as UNHCR has made no request to the authorities to go there. This raises the question of access to asylum for sub-Saharan migrants, most of whom

⁵ “UNHCR High Commissioner António Guterres condemns attacks in Algiers.”

are situated in the south. These migrants often remain in the south for several months and sometimes several years – the time necessary to earn enough money to continue their journey.

Questioned on this point, UNHCR considers that to the extent that migrants who intend to seek asylum know of the existence of the UNHCR Representation in Algiers and will do what they must to get there, their access to the asylum process is not hampered. However, UNHCR does regard this issue as a matter of concern since one of the objectives announced by the Commission for 2012 is precisely an improvement in access to asylum via a 20% increase in the UNHCR's capacity to register asylum seekers and make a decision on their application as well as an improvement of the conditions under which they are received.⁶

The question of access to the asylum process is one that is also raised about migrants who are or will be detained in holding centres. UNHCR has no information on these centres whose establishment is provided for in the 25 July 2008 law:

“Holding centres can be lawfully established for the purpose of accommodating foreign nationals whose situation is illegal whilst they await their return to the border or their transfer to their country of origin” (article 37).

According to a number of information sources, these detention centres provided for within the law are not yet in existence.

Does the UNHCR make decisions on refugee status (RSD) and register refugees?

Yes

There are three people responsible for registering asylum applications: a computer specialist, a registration clerk and a field clerk. To get themselves registered, asylum seekers are invited to send a fax with their telephone number on it. UNHCR then telephones them and agrees on a meeting in fax receipt order. A maximum number of meetings is fixed for each registration day but UNHCR gives priority to those that are most vulnerable.

According to information collected from the UNHCR office in Algiers, some 10 to 20 asylum requests are registered each week, proportionate to the team's capacity. Each asylum seeker then receives a certificate to cover the period from the date of registration to the anticipated date of decision notification. According to UNHCR, the wait for the meeting is two months then three months minimum before the

⁶ 2012 UNHCR Country Operations Profile – Algeria, <http://www.unhcr.org/pages/49e485e16.html> (in English).

UNHCR decision notification – constituting in all a delay of about five months. In addition, it should be noted that UNHCR has increased its capacity by 20% to deal with increased demand arising from the conflicts that have broken out in a number of African countries.

Two officers who deal with eligibility are charged with handling the procedures for deciding on refugee status. The assistant responsible for legal issues also does this on a limited basis. According to the UNHCR office in Algiers, there is no need to resort to a prima facie recognition procedure because of the small number of requests: UNHCR staff thus assess protection needs on an individual basis. An appeals procedure exists within the UNHCR.

Those who are recognised as refugees are given a refugee card. This card, which cannot be forged, now replaces the certificates which were issued by UNHCR until the end of 2009, and is valid for one year.

How many refugees and asylum seekers are currently recognised by UNHCR?

According to UNHCR Algiers, there are 140 refugees and 670 asylum seekers currently recognized by the UNHCR (2011).

List the total number and their distribution by country of origin, age and sex:

Type	Origin	Total	Helped by UNHCR	Percentage female	Percentage under 18 years
Refugees	Western Sahara ¹	90,000	90,000	-	-
	Occupied Palestinian Territories	4,000	10	-	-
	Others	130	130	41	34
Asylum seekers	Cameroon	300	300	37	13
	Ivory Coast	210	210	28	8
	Others	310	310	19	12
Total		94,950	90,960		

Source : Global Report Algeria 2011. UNHCR.

Relocation

Given the situation whereby they have no rights in Algeria, a number of sub-Saharan refugees wish to relocate to other countries. But this solution is not a key priority for UNHCR: 11 refugees have been relocated between 2008 and 2011, and requests for relocation by some 30 refugees are being processed. The main countries of relocation are the United States, Canada, Sweden, and Norway. UNHCR states that one of its key objectives for 2012 is the relocation of the 30 most vulnerable refugees.⁷

Is refugee status granted by UNHCR recognised by the local authorities?

According to the 1963 decree, the Office for refugees and stateless persons: “(..) (b) recognises the refugee status for any person who falls within the mandate of the United Nations High Commission for Refugees or who falls within the definitions of the first article of the aforementioned Convention of 28 July 1951” (article 2).

In fact, the BAPRA does not recognise the refugee status of sub-Saharan Africans (see above) who do not have a residence permit or any other document from the Algerian authorities. In the event of an identity check, the Police often take no notice of the UNHCR issued refugee card shown to them by refugees and of which they are generally unaware. This card does not therefore protect refugees from being arrested. Neither does it protect them from expulsion or being returned to the border, these being carried out on the basis of an order issued by judges who also are not adequately informed about the 1951 Convention and the role of UNHCR. In short, any refugee, and all the more so, any asylum seeker, is liable to be arrested, detained and extradited at any moment for having illegally entered Algerian territory because the authorities are unaware of their status.

Faced with this situation, UNHCR is engaged in groundwork to raise awareness within the police force about its work and the 1951 Convention. It would seem that thanks to these efforts, the situation is beginning to evolve and that, according to the UNHCR, arrests are less frequent. There are, however, no statistics and these tendencies are difficult to check or measure. But UNHCR has provided several examples where they were alerted by the police of the arrest of refugees or asylum seekers and were able to intervene with the authorities so that the person who had been arrested and brought before the Court was able to obtain a relaxation of procedures in compliance with article 42 of the 28 June 2008 law cited above. UNHCR emphasises that this selective work of awareness-raising on the ground should be bolstered on a larger scale by training programmes for those responsible

⁷ 2012 UNHCR Country Operations Profile – Algeria, <http://www.unhcr.org/pages/49e485e16.html> (in English).

for applying the law.

Besides the refugee status recognition procedure, what other kinds of aid does UNHCR offer to refugees (direct aid, micro-projects, etc.), and how is this aid provided (local partners, procedures, etc.)?

UNHCR provides help for refugees in terms of accommodation, children's education, and social and medical care. This help is not delivered directly by UNHCR but by its implementing partners, in other words organisations which get funding from UNHCR to carry out this work. The groups involved (grouped as "NGOs" on the UNHCR website) are as follows:

- The Algerian Muslim Scouts: the partnership with the Scouts comes within UNHCR's partnership with the NADA - Réseau algérien pour la défense des droits de l'enfant (Algerian network for the defence of children's rights).
- SOS Femmes en Détresse (SOS Women in Distress);
- Association de Femmes Algériennes pour le Développement (Association of Algerian Women for Development);
- LADDH - Ligue Algérienne de Défense des Droits de l'Homme (Algerian league for the defence of human rights):
- Association Rencontre et Développement (Meeting and Development Association)
- Association Nationale d'Information et de Communication en Milieu de Jeunes - « Info-Com Jeunes » (Association for Information and Communication within the Youth Community - "Info-Com Youth")
- Algerian Red Crescent
- Caritas Algeria

The help provided by UNHCR and its implementing partners is listed as follows:

- Help with accommodation: organised by the association SOS Femmes en détresse as of the end of 2009. UNHCR committed to this partnership in line with its September 2009 Guidelines on supporting refugees in an urban situation and its Age, Gender and Diversity Mainstreaming (AGDM) activities.

- Social support: provision of food (meal baskets given by SOS Femmes en détresse), funerals (funding of funerals organised by the association Rencontre et Développement).
- Help with children's schooling: organised by the association Rencontre et Développement. Some forty refugee children attend some ten private schools approved by the State for whom Rencontre et Développement pays the monthly fees. The association also pays for the provision of each child's school clothes. This help with schooling was expanded as of 2010 as a result of a new partnership set up with NADA (Réseau algérien pour la défense des droits de l'enfant). Already in 2011 this partnership succeeded in schooling 10 refugee children between the ages of 5 and 14 of various nationalities (Angolan, Ivorian, Congolese, and Camerounian) in schools in Algiers.
- Medical help: delivered via the partnership between UNHCR and a pharmacy and a medical centre.

In Annaba, the Association de Femmes Algériennes pour le Développement⁸ also offers help to refugees as a UNHCR partner association.

A.4. The Rights of Refugees and Asylum Seekers

Does the existing framework effectively protect the rights of refugees and asylum seekers? Explain.

In Algeria, there is no system guaranteeing the right of asylum. Although the BAPRA was established in 1963 to decide upon asylum requests and recognise the refugee status of those falling under the UNHCR mandate, the rejection rate for requests submitted by nationals from sub-Saharan countries is 100% (see above).

As a result sub-Saharan asylum seekers and refugees are stuck in a situation where they have no rights. Even with their asylum request certificate and their refugee card, they are constantly under the threat of arrest followed by detention and forced return to the border. On this matter, the Concluding Observations on Algeria published at the end of 2007 by the UN Human Rights Committee still remain relevant today: the Committee *“notes with concern that certain categories of asylum seekers, including persons with refugee status granted by the Office of the High Commissioner for Refugees do not have access to the asylum procedures in effect*

⁸ It was not possible to get an interview with representatives of this association.

pursuant to Algerian legislation and thus risk being detained as illegal immigrants and returned (art. 7 of the Covenant).” The Committee recommends that Algeria “guarantee every asylum seeker access to the procedures established by law. The State party should refrain from expelling asylum seekers or persons who have been granted refugee status, in accordance with the principle of non-refoulement, especially when such persons risk being subjected to torture and ill treatment in their country of origin.”⁹

In the face of these frequent arrests and expulsions or risk of expulsions, as illustrated by the experience related here, several people interviewed – migrants and representatives of associations – blame UNHCR for not guaranteeing protection for the refugees they themselves have recognised.

UNHCR recognised me as a refugee in October 2009. Shortly afterwards, I was arrested. The judge accused me of entering Algerian territory illegally. He took no notice of my refugee card; he did not recognise this document and said that it had no heading with the words “Republic of Algeria” and so was of no concern of his. I spent 17 days in prison where I fell ill. No one came to see me. It was tough. There were fights. Then my case was decided and I got a 3 months suspended sentence and a fine of 5000 dinars. When I left prison, I was sent to the Police HQ where I was made to sign an expulsion order in Arabic and I was told I had 15 days in which to leave the country. I then alerted UNHCR which told me that it would appeal but I don’t know how far that got.

For its part, UNHCR is increasing its awareness-raising initiatives, particularly with the Police, so that they are capable of recognising the documents issued by the UNHCR and no longer arrest people who possess these documents nor execute the expulsion order which might be issued in this situation. These initiatives seem to be bearing fruit as, according to the UNHCR, no arrest has been followed up by expulsion since August 2009.

Do those with refugee status have:

Access to a residence permit?

No

According to the 25 July 1963 decree setting out how the 1951 Geneva Convention is to be applied with respect to refugee status, the Office for refugees and stateless persons “issues, after inquiry if there is one, to the above designated persons, the documentation necessary to allow them, either to carry out certain administrative

⁹ United Nations Human Rights Committee Concluding Observations on Algeria, CAT/C/DZA/CO/3, 12 December 2007, para. 22.

formalities, or to enable them to arrange for application of the provisions under internal legislation or international agreements which concern their protection” (article 2(c)). In fact, their status is not recognised by Algeria and such refugees receive no documentation from the Algerian authorities and so they have no more rights than do illegal migrants. The only difference in treatment that those with refugee status enjoy is not due to their status under Algerian law but by the existence of programmes developed by UNHCR in collaboration with local associations to accommodate them, provide them with social support, medical and legal help, and enable their children to go to school (see above, the question of help provided by the UNHCR).

Access to the job market: No

Nevertheless, many of them have access to the job market in the informal sector. The situation is the same as that for any other migrants (see below).

Access to health care: Yes

Access to health care is free in Algeria. Payment must, however, be made for certain medicines. UNHCR partner organisations provide this help and UNHCR has an agreement with a pharmacy and a clinical laboratory.

Frequently migrants – whether refugees or not – hesitate about getting medical help for fear of arrest.

Access to education: No

As they are considered undocumented, refugee children cannot be enrolled in a state school. The association Rencontre et Développement enrolls 40 children in private schools with funding from the UNHCR (see above).

Access to accommodation: No

Accommodation is found for refugees by SOS Femmes en détresse, via a partnership between it and the UNHCR, which enables lodging to be paid for. The association, however, is subject to significant pressure from those waiting for accommodation. In fact, like other migrants, refugees who have not yet been able to benefit from the accommodation programme live mostly in workshops or building sites where their presence is tolerated by the owners in exchange for minor watchman-type duties. Living conditions are extremely precarious because in general, they do not have water, electricity, or heating.

Observations

According to information gathered on the spot and confirmed by the Algerian delegation which came to present the initial report to the UN Migrant Workers' Committee in April 2010, reform of BAPRA should be underway. The Algerian authorities have expressed the need to "renew" this institution without saying exactly whether this renewal would be based on the creation of a system that respects the right of asylum and the rights of refugees, in compliance with the country's international obligations.

Against the background of this announced reform, UNHCR suggested arranging training on the subject of asylum for the relevant civil servants but no reply has yet been received.

B. Migration

B.1. Legal Entry and Stay

Is there legislation governing entry, exit and stay in the country?

The Algerian Constitution guarantees the protection of foreigners legally established in Algeria (article 67): “Any foreigner legally on national territory enjoys the protection of the law in respect of his person and his possessions.”

Law n°08-11 dated 25 June 2008 concerning the conditions of entry, stay, and movement of foreigners in Algeria replaced order n°66-211 dated 21 July 1966 concerning the status of foreigners in Algeria.¹⁰

In order to enter the territory, a foreigner must complete various formalities provided for in the first part of the June 2008 law entitled “general provisions.” As a result, he must, in particular, have a travel document and a valid visa. He has to be able to present these documents at the border along with his passport.

As a response to these requirements, a certain number of French speaking migrants buy false Malian passports which gives them the right to stay for three months without a visa. Every three months, the “passport holder” has to present himself at the border to have the passport stamped, thus prolonging his permission to stay for a further period of three months.

In addition to the 2008 law, there are a number of more specific texts which set out the conditions for employing foreign workers, on social security, accidents at work, safeguarding health, etc. which were listed in Algeria’s initial report to the Migrant Workers’ Committee.¹¹

Specific comments on the law from a rights perspective

Although Algerian ensures that “Algerian legislation encourages foreigners to enter

¹⁰ Debate in the National People’s Assembly at the time of its adoption can be consulted, in Arabic only at <http://www.apn-dz.org/>.

¹¹ Algeria’s Report to the UN Committee on protection of migrant workers, CMW/C/DZA/1, 22 July 2008, para. 7.

and stay on national territory,"¹² the law puts more emphasis on combating illegal immigration than on the protection of the rights of migrants.¹³

In addition, the law also directs its attention to illegal emigration, which is known as *harraga*, referring to Algerians leaving for Europe, but this does not come within the scope of the present research.

Is there a ministry or government body responsible migration related issues?

Yes

List these contacts:¹⁴

Several ministries and institutions are involved in the cross-cutting issues of migration, notably:

- The Ministry of the Interior and local authorities (in particular, the General Department for National Security);
- The Ministry of Foreign Affairs (in particular, the migration division);
- The Ministry for National Solidarity, the Family, and the National Community Abroad;
- The Ministry of Labour, Employment and Social Security;
- The Ministry for National Education;
- The Ministry of Health, Population and Hospital Reform.

Various coordination mechanisms exist between these institutions. Thus, those institutions responsible for coordinating the control of clandestine immigration meet periodically under the aegis of the Ministry of the Interior in a working group which brings together representatives of the ministries concerned. This working group regularly issues monitoring reports on the situation to the Ministry of Foreign Affairs. Monitoring committees also meet at local authority level, bringing together representatives of the same ministries as shown in Algeria's report to the migrant workers Committee: "*The National Gendarmerie HQ has implemented the*

¹² Id., para. 3.

¹³ A. Kerdoun, "La loi 08-11 sur la condition des étrangers : mutation des règles juridiques algériennes et leur impact sur la migration irrégulière" (Law 08-11 on the situation of foreigners; changes in Algerian law and their impact on illegal migration), Note d'analyse et de synthèse – module juridique (Analysis and Synthesis Note - Legal Module), CARIM-AS 2009/06, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI): European University Institute, 2009.

¹⁴ Azzouz Kerdoun, "Inventaire des institutions nationales et internationales opérant dans le domaine des migrations internationales en Algérie" (Inventory of national and international institutions operating in the field of international migrations in Algeria), Note d'analyse et de synthèse – module juridique (Analysis and Synthesis Note - Legal Module), CARIM-AS 2005/04, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI): European University Institute, 2005.

same mechanisms across a number of local authorities, with the aim of collecting information and combating illegal migration.”¹⁵

Are official statistics about the number of migrants in the country available?

Yes

The Algerian report to the UN Migrant Workers’ Committee contains a section entitled “Quantitative and qualitative information on the characteristics and nature of migration flows”, but the information provided is very poor and includes no figures on the number of migrants, no analysis by nationality, sex and age. The only additional information supplied in Algeria’s “written responses” to the Committee’s questions is “The number of foreign migrant workers and their families residing on national territory is: 107 452.”¹⁶ These figures refer to legal migration, in other words, foreign migrants in the non-resident and resident categories in accordance with the terms of the June 2008 law.

In addition, data is available to the General Department of National Security and is reported in an analysis published by Hocine Labdelaoui for CARIM (Consortium for Applied Research on International Migration).¹⁷ Of particular note therein is the estimate of a range of some 30,000 to 40,000 foreign workers, of whom a significant number are Chinese and Egyptian.

Other estimates can be found in the press; El Watan dated 2 February 2010 indicates that “according to official figures” (the source is not however mentioned), “about 45,000 foreigners work “legally” in Algeria” and they “represent 105 nationalities (...). Chinese workers head the list at 45%.”

One is talking here mainly of qualified or unqualified workers recruited by foreign businesses to carry out projects ordered by the Algerian government such as, to cite a recent example, the East-West motorway project undertaken by foreign businesses with a labour force recruited in the country of origin. Although the

¹⁵ Réponses écrites du Gouvernement algérien concernant la liste des points à traiter (CMW/C/DZA/Q/1) reçues par le Comité pour la protection des droits de tous les travailleurs migrants et des membres de leur famille à l’occasion de l’examen du rapport initial de l’Algérie on rapport initial au Comité des travailleurs migrants (CMW/C/DZA/1), CMW/C/DZA/Q/1/Add.1, 15 January 2010 (Written responses from the Algerian Government concerning the list of points to be addressed (CMW/C/DZA/Q/1) received by the Committee on protection of all migrant workers and members of their families when the initial report from Algeria was examined).

¹⁶ Ibid.

¹⁷ Hocine Labdelaoui, “Les étrangers en Algérie : vers la constitution de communautés d’immigrés” (Foreigners in Algeria: towards the constitution of immigrant communities), Note d’analyse et de synthèse- module socio-politique (Analysis and Synthesis Note - Socio-political Module), CARIM-AS 2009/04, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI): European University Institute, 2009.

migrants are legal in this case, it can happen that some of them have an additional professional activity beyond the contract which brought them to Algeria, or once the contract is over.

Are there any other statistics (estimates, etc.)? Yes

According to CISP - International Committee for the Development of People (Comité International Pour le Développement des Peuples), there are an estimated 26,000 irregular migrants in the country.

The calculation is based on a sample of 2000 people.

B.2. Illegal Entry, Departure, and Stay (Undocumented)

The information included in this section on undocumented migrants also concerns refugees and asylum seekers because, as indicated above, in the absence of a system in Algeria that guarantees the right of asylum to sub-Saharan, the latter get no especial protection.

The Algerian Constitution guarantees the protection of foreigners *legally* settled in Algeria (article 67). However, there is no general provision for protecting migrants independently of their status.

It is clearly difficult to establish with certainty the number of clandestine migrants. The Algerian authorities give the following figures: “According to the statistics available, an average of 7000 clandestine migrants are arrested annually on Algerian territory. About 70,000 illegal migrants have been recorded in the last ten years. The number of people expelled is estimated at some 20,000 during the period from 2000 to the first quarter of 2007. The number of foreign nationals returned to the border during the same period is assessed at 42,284, that means a total of 62,399 foreign nationals ejected.”¹⁸ According to these official figures, therefore, there would be on average about 25 expulsions or returns to the border per day.

Other estimates can be found for the number of illegal migrants, but they show considerable variation, according to the sources.¹⁹ Ali Ben Saad explains the issue of the figures as a reality which the official authorities have hidden for a long time, particularly because when they speak of migrants, it is mainly a question of migrants

¹⁸ Algeria's Report to the UN Committee on protection of migrant workers, op. cit., para. 44.

¹⁹ Id., p. 8.

in transit whose objective is to reach Europe and not stay in Algeria.²⁰ However, information gathered in the field invalidates this analysis. SARP - L'Association pour l'Aide, la Recherche et le Perfectionnement en Psychologie (Association for Support, Research, and Improvement in Psychology) and the office of CISP in Algeria - Comitato Internazionale per lo Sviluppo dei Popoli (International Committee for the Development of People), carried out a wide-ranging survey in 2008 with a sample of 2149 migrants who, with the help of CISP's local agents (who are also generally sub-Saharan) answered a questionnaire. This study took place in Algiers, Oran, and Tamanrasset. It gives no precise number of migrants in Algeria but provides unique information on their profiles, journeys, living conditions etc. It appears that *"the proportion of sub-Saharan migrants wishing to live in Algeria is far from being negligible as 57% have this objective whilst 43% plan to leave for Europe or elsewhere (other countries in the Maghreb, Canada, and Australia). This initial impression suggests that Algeria is from now on a country of immigration and not merely a country of transit to Europe."*²¹ The authorities now seem to be recognising this reality: *"These clandestine migrants work in the informal sector, either to build up savings so as to try to emigrate to Europe or to settle permanently"*²²

After having announced in 2008 that it had "in collaboration with European partners set up an Observatory for the gathering of data on migration flows in the Mediterranean region",²³ Algeria indicated orally to the Committee in April 2010 that this information was incorrect and that the Observatory had not yet been set up.

Are there any legal texts which penalise illegal entry, departure or stay in the country? If so, identify the references in the law and the nature of the penalties.

²⁰ Ali Bensaâd, "Les migrations sub-sahariennes en Algérie" (Sub-Saharan migrations in Algeria), Rapports de recherche CARIM (CARIM Research Reports), CARIM-RR 2008/01, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI): European University Institute, 2008, p 1-3.

²¹ Comitato per lo Sviluppo dei Popoli (International Committee for the Development of People), Les migrants subsahariens en situation irrégulière SARP - L'Association pour l'Aide, la Recherche et le Perfectionnement en Psychologie (Association for Support, Research, and Improvement in Psychology) and CISP - Comitato Internazionale en Algérie : caractéristiques, profils et typologie (Illegal sub-Saharan migrants in Algeria: characteristics, profiles and types), research team: Khaled Noureddine, Hafdallah Rafika, Gharbi Houria, Adam Carine, Musette Saib, November 2008.

²² Op. cit. para. 45.

²³ Réponses écrites du Gouvernement algérien concernant la liste des points à traiter (CMW/C/DZA/Q/1) reçues par le Comité pour la protection des droits de tous les travailleurs migrants et des membres de leur famille à l'occasion de l'examen du rapport initial de l'Algérie on rapport initial au Comité des travailleurs migrants (CMW/C/DZA/1), CMW/C/DZA/Q/1/Add.1, 15 January 2010 (Written responses from the Algerian Government concerning the list of points to be addressed (CMW/C/DZA/Q/1) received by the Committee on protection of all migrant workers and members of their families when the initial report from Algeria was examined).

Yes, the aforementioned law dated 25 June 2008. Compared with the preceding legislation, this law provides for tougher penalties. It introduces the possibility of establishing reception centres for migrants who have been arrested.

In addition, law n°09-01 dated 8 March 2009 alters the Penal Code by introducing provisions concerning illegal trafficking in migrants. The concept of “illegal trafficking” is defined in the law as “*the act of organising the illegal departure from the national territory of one or more persons in order to gain directly or indirectly a financial profit, or any other advantage.*” It therefore purely targets departure from the territory.

What are the penalties / measures relating to:

*Unauthorised entry and departure:*²⁴

By virtue of the law dated 25 June 2008, a foreigner who illegally enters Algeria risks between 6 months to 2 years in prison. This can be increased to 5 years if he does not leave the territory after having been issued an expulsion order.

This is provided for in the following articles:

- Article 42 – Any foreigner who fails to comply with an expulsion order or an order to return to the border or who, expelled or returned to the border, comes back again into Algerian territory without being so authorised is punishable with two (2) to five (5) years' imprisonment, unless he can prove that he was unable to regain his country of origin nor able to enter another country and this, in compliance with the provisions of international conventions governing the status of refugees and stateless persons.

The same penalty is applicable to any foreigner who has not presented to the competent administrative authority the travel documents enabling one of the measures cited in the first paragraph above to be carried out or who, failing this, has not communicated the information necessary for these to be carried out.

The court may, in addition, prohibit the convicted person from staying on Algerian territory for a period not exceeding ten (10) years.

The prohibition to stay in Algerian territory automatically includes the return of the convicted person to the border when the term of imprisonment is over, if applicable.

²⁴ Only the departure of Algerian emigrants, the so-called ‘haragas’, is a criminal offence, the 2008 law having repealed the need for an exit visa for foreigners.

- Article 44 – Notwithstanding the provisions of articles 30 and 36 above, infringement of articles 4, 7, 8, and 9 above, is punishable by imprisonment of six (6) months to two (2) years and a fine of 10,000 to 30,000 dinars.

Illegal migrants, as well as refugees and asylum seekers - as they enjoy no special protection in spite of the provisions of the 2008 law - live in fear of being arrested and forcibly returned to the border. Many are those who have experienced arrest on one or more occasions in, at times, dramatic circumstances.

When a migrant is arrested, two simultaneous processes are set in motion. In accordance with legal procedure, the migrant is prosecuted for illegal entry and stay (2008 law) and placed under a committal order whilst waiting to be brought before the judge. Such detention can last more than two weeks, according to information obtained from migrants who have experienced this situation. The penalty incurred by the foreigner who infringes the provisions relating to entry, stay and movement of foreigners ranges from a fine to imprisonment (see chapter VIII of the law: "Penal provisions"). In practice, the judge almost automatically condemns the illegal foreigner to a suspended sentence of between 2 to 6 months.

However, the foreigner is not set free because, as part of an administrative procedure, he is sent to Police HQ where he is put on file and is issued with an expulsion order. Now at liberty, he has fifteen days in which to leave the territory (article 31 of the law of June 2008).

Since August 2009, the intervention of UNHCR on behalf of asylum seekers and refugees has enabled the expulsion of this category of migrant to be avoided, but has not always avoided their being condemned to a suspended prison sentence.

Discretionary powers over expulsion and detention:

Article 30 of the law dated 25 June 2008 provides that:

- In addition to the provisions set out in article 22 (paragraph 3) above,²⁵ the expulsion of a foreigner from Algerian territory can be ordered by the Minister of the Interior in the following cases:
 - » when the administration considers that his presence in Algeria constitutes a threat to public order or to the security of the State;
 - » when he has been the subject of a judgement or a final court decision

²⁵ Article 22 applies to residents. Paragraph 3 provides that a residence permit can be withdrawn from a foreigner "whose activities with respect to the authorities concerned are shown to be immoral and contrary to the public peace or damaging national interests or having led to his conviction for acts relating to these activities."

- which bears a penalty of imprisonment for a crime or offence;
- » when he has not left Algerian territory within the time period set in compliance with article 22 (paragraphs 1 and 2).²⁶

Article 36 of the law provides that:

- Unless his administrative situation is formalised, the foreigner who illegally enters Algeria or who is staying illegally in Algerian territory can be returned to the border on the basis of an order from the competent provincial governor.

Whilst waiting to be returned to the border, the illegal foreigner can also be placed in a holding centre for a period of 30 days which can be extended by the provincial governor's decision. The law does not indicate how many times this period can be extended. These centres, whose establishment is lawfully authorised, are one of the new items introduced by the June 2008 law (article 37, see above and below).

The procedure to be followed in respect of expulsion decisions:

Chapter VII of the law of 2 June 2008 entitled "Expulsion and return to the border" Article 30 sets out the cases in which an expulsion order can be made by the Minister of the Interior:

- » when the administration considers that his presence in Algeria constitutes a threat to public order or to the security of the State;
- » when he has been the subject of a judgement or a final court decision which bears a penalty of imprisonment for a crime or offence;
- » when he has not left Algerian territory within the time period set in compliance with the provisions of article 22 (paragraphs 1 and 2) above, unless he proves that his delay is due to *force majeure*.

Prohibition on returning to Algerian territory

In consequence of article 42 of the law of 2 June 2008:

- Any foreigner who fails to comply with an expulsion order or an order to return to the border or who, expelled or returned to the border, comes back again into Algerian territory without being so authorised is punishable by two (2) to five (5) years' imprisonment, unless he can prove that he was unable to regain his country of origin nor able to enter another country and this, in compliance with the provisions of international conventions governing the status of refugees and stateless persons.

²⁶ Article 22 paragraphs 1 and 2 concern residents' conditions of stay.

The same penalty is applicable to any foreigner who has not presented to the competent administrative authority the travel documents enabling one of the measures cited in the first paragraph above to be carried out or who, failing this, has not communicated the information necessary for these to be carried out.

The court may, in addition, prohibit the convicted person from staying in Algerian territory for a period not exceeding ten (10) years.

The prohibition to stay in Algerian territory automatically includes the return of the convicted person to the border when the term of imprisonment is over, if applicable.

Most extradited migrants are taken to Tamanrasset by lorry and then to the border with Mali at Tin Zaouatine, 500 km further on. Most of them expect to earn enough money to be able to pay for the journey to get them back to Tamanrasset.

Does the law provide for exemptions from such sanctions for some special categories of migrants? If so, explain.

Article 7 of the June 2008 law on the conditions of entry and departure of foreigners, and also article 42 in respect of penalties exempt persons who fall within an area covered by an international convention relating to refugees and stateless persons. In other words, asylum seekers and refugees are not subjected to the same obligations as other migrants: the law exempts them from being obliged to have the travel documents required for foreigners and protects them against expulsion or return to the border.

In practice, however, these provisions are inoperative. In fact, in the absence of a national system protecting the right of asylum, asylum seekers and refugees are not recognised by the Algerian authorities and the same punishments are applied, as illustrated by the case of Mrs K, an asylum seeker who was arrested with her family in December 2008 and interviewed in February 2010.

Like her husband and two children, Mrs K held the UNHCR asylum seeker's certificate which she had renewed every year with UNHCR. However her sister's certificate had run out two weeks before and the UNHCR had not wanted to renew it because, she explains, she had a date fixed shortly afterwards for an interview. The police had therefore taken in the whole family "to check", but did not call the UNHCR. No trial took place and Mrs K was taken away with her sister and children on a lorry whilst her husband was put on another. After 4 days on the road during which they were given bread and water, they were dropped off in the desert, about

10 km beyond Tin Zaouaten, in Mali. After several months wait in the country, begging a living and sleeping in a bus station at Bamako, they tried to gradually make their way back to Algiers. When they reached the border, they were again arrested and tried as their asylum seekers' certificate had expired, but this time, the town gendarmerie sent them to Algiers where they arrived in December 2009, one year after their arrest. There, Mrs K found her husband again and the UNHCR recognised her status as a refugee. She was therefore able to take advantage of the accommodation programme run by the association SOS femmes en détresse (SOS Women in Distress).

In the event of a decision to expel, does the legislation provide for an appeals process? If so, does this procedure delay the expulsion process? Is it really accessible to migrants?

The 2008 law provides for appeal procedures for the foreigner issued with an expulsion order. According to article 31 of this law, the decision to expel is notified to the migrant who "*according to the seriousness of the accusation brought against him(...), has a right to a delay of between forty eight hours and fifteen days as from notification of the order for expulsion from Algerian territory*". This same article guarantees that the migrant may bring an action before the summary applications judge within five days and indicates that the appeal suspends the expulsion procedure.

In fact, according to information gathered from lawyers working on behalf of migrants who have been issued with an expulsion order, these decisions are implemented so quickly that it is impossible to prepare an appeal within the five days stipulated. The lawyers questioned are not aware of any case law exemplifying the implementation of the guarantees set out in article 31. The poor networking between associations and the lack of collaboration between the players involved also explain the absence of any litigation on this issue and the lack of protection guaranteed to migrants in practice. In respect of this, the programme implemented by LADDH with UNHCR in February 2010 which provides for the intervention of lawyers trained by LADDH when refugees and asylum seekers are arrested, has begun to improve protection for the latter.

Expulsion orders generally allow 15 days for the migrant to leave the territory. If he makes no appeal, stays within the territory and is again arrested, he is then extradited, under application of article 30 (1) of the 2008 law cited above.

In addition to expulsion, the illegal foreigner can also be subject to a return to the border by order of the competent provincial governor (article 36). In this case, the law does not indicate what appeals process is available to the foreigner issued with such an order. One supposes that, as with the expulsion order and any ministerial order, the return to the border order can be the subject of an appeal before the Council of State to

void the expulsion decision (art. 901 of the Civil and Administrative Procedure Code²⁷) or of an action before the summary applications judge to freeze its execution. However, the absence of any precisions in the law leads to well-founded fear of a possible increase of expulsions without any guarantees for the rights of those involved.

In its Concluding Observations published in 2008, the United Nations Committee against Torture underlined that it *"is concerned about allegations received of collective expulsions of migrants in violation of their basic right to have their case reviewed individually and to appeal against the expulsion decision. The Committee is also concerned that some persons might be expelled to States where they risk being subjected to torture."* The Committee recommends that Algeria *"fully implement the provisions of article 3 of the Convention and ensure that the persons under its jurisdiction have their cases duly considered by the competent authorities and receive fair treatment during all stages of the procedure, including the opportunity to request an effective, independent and impartial review of the relevant expulsion or removal decisions, and to exercise the right of appeal. In this respect the State party should ensure that before the authorities responsible for overseeing foreign nationals take a decision to expel a foreign national who has entered or is residing illegally in Algeria, they conduct a thorough review of the situation in all cases to ensure that the person concerned would not be subjected to torture or inhuman or degrading treatment in the country to which he or she could be sent."*²⁸

The practice of detaining migrants before their expulsion is not recent and it has been mentioned by several sources prior to the 2008 law.²⁹ The CISP report *"Les réalités migratoires subsahariennes en Algérie"* (2008) (The Realities of sub-Saharan migration in Algeria) speaks of the grouping up of migrants in prisons and police HQs in different towns throughout the country: Ghardaïa (for those arrested in the East), Oran then Laghouat (for those arrested in the West), and Blida then Laghouat (for those arrested in the centre); from Laghouat, they are taken to Ghardaïa and then on to In Salah. This report emphasises the harshness of conditions in detention (lack of water, food, hygiene).

²⁷ This article provides that "The Council of State is the court of first and last instance for appeals relating to the cancellation, interpretation or appraisal of legislation brought against administrative decisions emanating from the administrative authorities."

²⁸ United Nations Committee against Torture Concluding Observations on Algeria, CAT/C/DZA/CO/3, 16 May 2008, para. 9.

²⁹ See Ali Bensaâd, "Les migrations sub-sahariennes en Algérie" (Sub-Saharan migrations in Algeria), Rapports de recherche CARIM (CARIM Research Reports), CARIM-RR 2008/01, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI): European University Institute, 2008 "The 60 Africans to whom UNHCR granted political refugee status and who were arrested at the end of 2005 have not been sent back to their countries but have since then be in "preventive detention" in Reggane (extreme South)". When questioned about this, UNHCR had no information about the 60 refugees.

Since the adoption of this law which provides for the legal establishment of holding centres, human rights defenders have expressed the fear that *"with these holding centres, Algeria is becoming an administrative detention subcontractor for European countries"* and considers it *"imperative that these centres be subject to the control of the courts (...) and be open to local and foreign organisations that defend human rights."*³⁰ Migrants can be held there for a period of 30 days which can be extended without the law indicating how many times this is allowed, and this is also a cause for concern.

In addition, the holding centres will be placed under the authority of the Ministry of the Interior. They cannot therefore be visited by the ICRC which reached an agreement with the Ministry of Justice to visit detention centres within its authority (since 1999) as well as police stations and gendarmerie premises (since 2002).

At the moment, there is no official information about these centres. The Algerian authorities state that migrants awaiting expulsion are not placed in special centres but simply put under house arrest. However, some sources report that it does happen.

Are there provisions which punish persons who give help (with lodgings, transport, etc.) to migrants that have entered or are staying in the country illegally? Yes

List the types of penalties:

Chapter IV of the 2008 law entitled "Declaration by foreigners about their employment and accommodation" provides that:

Any person or corporate body that employs a foreigner in whatever capacity is obliged to declare this within a time period of forty eight (48) hours to the relevant local office of the Ministry for Employment and failing this to the local authority where recruitment took place or to the police station or to the relevant local office of the national gendarmerie.

The same formalities must be carried out when employment is terminated.

The employer must be in a position to present, at the request of any of these authorised agents, the documents that authorise the employment of foreigners in his establishment (...) (Article 28).

³⁰ Nasr-Eddine Lezzar, "La nouvelle loi algérienne sur le séjour des étrangers : les stigmates de l'état d'urgence et du tout sécuritaire" (The new Algerian law on foreigners' staying: the scars left by the insecure State of Emergency), in Errabita (periodical of the LADDH), 1st quarter 2009.

Failure to comply with this requirement renders the perpetrator liable to a fine of 200,000 to 800,000 dinars:

Without prejudice to the provisions of legislation covering the employment of foreigners in Algeria, employment of an illegal foreigner by a business renders the perpetrator liable to a fine of 200,000 to 800,000 dinars. (Article 49).

As regards accommodation for foreigners, the law provides that:

Any professional or ordinary landlord who lodges a foreigner of any kind is obliged to declare this to the police station or to the office of the national gendarmerie or failing this to the local authority where the lodgings are situated within a time period of twenty four (24) hours. (Article 29).

The landlord who does not make this declaration is liable to a fine of 5,000 to 20,000 dinars:

Any person who gives lodgings to a foreigner and who omits to declare this as provided for under article 29 above is punishable with a fine of 5,000 to 20,000 dinar (article 38)

In an attempt to crack down on smuggling, the law targets all those who help migrants and they risk between 2 and 20 years imprisonment (article 26):

Any person who directly or indirectly facilitates or tries to facilitate the illegal entry, movement, stay or departure of a foreigner is punishable with imprisonment of between 2 to 5 years and a fine of 60,000 to 200,000 dinars.

The penalty is imprisonment from five (5) to ten (10) years and a fine of 300,000 to 600,000 dinars, when the offence as set out in the first paragraph above is committed in any one of the following circumstances:

- » carrying weapons;
- » using transport, telecommunications and other special equipment;
- » offence committed by more than two persons when the number of clandestine immigrants brought in exceeds two ;
- » when the offence is committed in circumstances which directly expose foreigners to an immediate risk of death, or injury of a nature that entails permanent mutilation or disability;
- » when the effect of the offence is to subject foreigners to living, transportation, working or accommodation conditions incompatible with human dignity;
- » when the effect of the offence is to distance foreign minors from the

family circle and their traditional environment.

The penalty is imprisonment from ten (10) to twenty (20) years and a fine of 2,250,000 to 3,000,000 dinars, when the offence has been committed and included at least two of the circumstances provided for in the preceding paragraphs.

The judge can also require the confiscation of anything used to commit the offence as well as any income derived from it.

These penalties can be accompanied by additional penalties (article 47):

Those committing the offences cited in article 46 above can incur the following additional penalties:

- » prohibition to stay in Algerian territory for a maximum period of five (5) years;
- » withdrawal of driving licence for a period of five (5) years. This period can be doubled in the event of a repeat offence;
- » temporary or permanent withdrawal of a transport operator's licence;
- » prohibition for a maximum period of five (5) years from carrying out the professional or social activities being performed within the context of the offence.

Effects of these legislative provisions on the rights of migrants and refugees

Access to Justice: The right of appeal to a court in the event of arrest is guaranteed "without distinction between nationals and foreigners," according to Algeria's initial report to the Migrant Workers Committee.³¹ Information collected both from lawyers and migrants demonstrates that in practice arrested migrants have no opportunity to contact UNHCR or a lawyer and are not informed of their rights. They do not have the benefit of an interpreter at the hearing. In order to overcome this shortcoming, the LADDH - Ligue Algérienne de Défense des Droits de l'Homme (Algerian League for the Defence of Human Rights) - has developed a legal help programme.

The right to compensation which Algeria affirms in its report to the Migrant Workers' Committee and in the Code of Penal Procedure,³² has never in fact been invoked by migrants who are victims of arrest or illegal detention. The climate of fear in which the migrants live explains why they do not exercise this right.

³¹ Op. cit. para. 161.

³² Op. cit. 164.

Registration of births and birth certificates: The right to recognition of legal status is recognised by the Migrant Workers' Convention and was emphasised by Algeria in its initial report to the Migrant Workers' Committee.³³ In practice, registration of births is done in hospitals and requires that official documents are provided, though this is not always possible.

To a residence permit: There is no right to a residence permit.

To the job market: Employment in the formal sector is reserved to foreigners legally settled in Algeria; as to illegal migrants, they fall back on employment in the informal sector. Migrants working in construction and who have a particular qualification, (electrician etc.,) seem to find work. CISP's report on the realities of migration in Algeria³⁴ give a very full picture of the professional activities performed by migrants: people from Niger, Benin, and Mali are the three nationalities most employed in embroidery; people from Cameroon, the Congo and Benin are often present on construction sites, etc. Some work as watchmen, gardeners, or odd-job men in the villas of Algerians in exchange for lodging and a small wage.

To health care: The right to health care is the only right guaranteed to migrants in Algeria. Access to health care is free in Algeria. However, certain medicines have to be paid for.

According to research into the living conditions of migrants done in 2008 by two associations, SARP and CISP, with more than 2000 migrants,³⁵ only 22% of those interviewed said they had access to the healthcare system. Three factors explain this low figure:

- **Lack of information:** migrants often do not know that they have free access to health care. Associations like CISP (via their local agents) or "Rencontre et Développement " (Meeting and Development) visit communities in the houses they occupy in order to keep them informed.
- **Fear:** undocumented migrants are hesitant about going to hospital for fear of being arrested.
- **Racism:** in some cases, migrants have encountered negative reactions

³³ Op. cit. para. 149 s. and 216 s.

³⁴ CISP - Comitato Internazionale per lo Sviluppo dei Popoli (International Committee for the Development of People) Réalités migratoire subsahariennes en Algérie (The Realities of sub-Saharan migration in Algeria), Document written by the CISP-Algeria team and its local agents amongst the migrants, coordination Faical Abdel Aziz, 2008 p. 20-29.

³⁵ See Les migrants subsahariens en situation irrégulière en Algérie : caractéristiques, profils et typologie (Illegal Sub-Saharan migrants in Algeria: characteristics, profiles, and types), op. cit.

from healthcare staff, some of whom associate migrants with AIDS.

CISP's local agents, "Rencontre et Développement" and nuns (in Tamanrasset) act as intermediaries between migrants and doctors if necessary. Their intervention reassures migrants about the risks of being arrested in hospital.

To education: The issue of a right to education is becoming more and more important as the number of migrant children has increased in Algeria due to the increased feminisation of migration flows, according to data gathered by CISP's local agents.

In its report to the Migrant Workers' Committee Algeria states that children can be enrolled in state schools "*provided that they are able to follow lessons taught in Arabic*".³⁶ However many sub-Saharan migrants come from French-speaking countries and do not speak Arabic. In addition, the paper work demanded in practice for the enrolment of children in a state school cannot be assembled by undocumented migrants so the enrolment of their children depends on the goodwill of the headmaster. CISP's latest report (2008), mentioned above and drafted by its local agents who work with migrants, clearly shows the discrepancy between official rhetoric and reality on the issue of the enrolment of the children of illegal migrants. A good number of the sub-Saharan migrant children therefore attend private schools via the intermediary help of the association "Rencontre et Développement" (Meeting and Development) which has enrolled 40 children with the help of funding from UNHCR for the refugees (see above) and "Secours Catholique" (Catholic Help) in France for undocumented migrants.

To accommodation: Access to accommodation is a major problem for migrants. Lodgings for refugees can be found thanks to a programme run by the association "SOS Femmes en détresse" (SOS Women in Distress) funded by UNHCR and mentioned above. Many live in very difficult conditions whilst they are waiting. This is also true of other migrants, scattered over many districts by nationality, as the report by CISP clearly shows.³⁷ Many live on building sites whose owners let them do so in exchange for watchmen's duties. There is often no water, electricity, nor doors or windows in spite of extremely cold temperatures in winter and deplorable sanitary conditions. This is particularly the case at a site called "the carcass", outside Algiers in the Delly Brahim district where many Congolese people live in very precarious conditions. In Tamanrasset, many migrants live at a site called "the boulder" where they effectively live in grottos formed in the rocks in the miserable conditions described in the CISP report.

³⁶ Op. cit. para. 219.

³⁷ Op. cit., pp. 10-20.

Racism and discrimination

Public opinion and the press tend to lump together immigration, asylum, drug trafficking, and criminality. Migrants or representatives from the associations questioned about this talk of racism amongst Algerians but also of their support in some situations - for example via research into accommodation for refugees by "SOS Femmes en détresse" (SOS Women in Distress). For English-speaking migrants, the language barrier is an additional difficulty.

B.3. Rights of Migrant Workers

This section complements the replies set out in B.1. for legal workers and B.2. for illegal workers.

Are there any legal texts protecting the rights of migrant workers? Yes

Beyond the two specific laws mentioned above (the law dated 25 June 2008 relating to the conditions of entry, departure, and movement of foreigners in Algeria and law n°09-01 dated 8 March 2009 tightening up the Penal Code to crack down on the illegal trafficking of migrants), other more general laws have implications for migrant workers. An example is law 90-14 dated 2 June 1990 on the way in which the trade union rights are exercised: by virtue of article 6 of this law only those of Algerian nationality have the right to form a Trade Union.

Do these legal texts also protect illegal migrants? No

Explain

On the subject of the entry and stay of migrants, only law 08-11 dated 25 June 2008 is applied and this makes illegal entry and stay a criminal act. The current labour legislation lacks any provisions for illegal migrations and the Convention relating to the rights of migrant workers is never in fact applied to illegal migrants.

Do these legal texts comply with the Convention on the rights of migrant workers? Does the national legal framework sufficiently protect these rights? Yes and no

In its report to the Migrant Workers' Committee published by UNO in July 2008, Algeria indicates that *"the process of adapting the Algerian legal framework to take account of these international treaties is well advanced. It should swiftly result in the*

incorporation of international norms in domestic legislation. This is how matters stand with regard to the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the ratification of which, in 2004, is expected to usher in major changes, particularly to the Labour Code and the law on the employment of foreigners in Algeria.”³⁸

Two years later, the Algerian Press reported that "the Ministry of Labour, Employment and Social Security has announced that it plans to reorganise the activities of foreigners in Algeria. The problem will be dealt with within the context of a new Labour Code which is being drafted. "A new article relating to the organisation of foreign labour in Algeria will be included in the text. It is necessary to implement mechanisms enabling the control, monitoring and management of such labour," said Mr Louh, Minister for Labour, Employment, and Social Security.³⁹

This article is still in preparation, according to the Ministry of Labour, and has not yet been enacted.

B.4. The role of IOM

Does IOM have one or more offices in the country?

No. The reason given by IOM refers to the small number of projects the organisation has in this country, which has not justified the establishment of an office until now.

In July 2009, the Director General of IOM, William Lacey Swing, announced that an office would soon be opened in Algiers, but there has been no further development since this announcement.

Does the IOM have any legal status in the country (host country agreement, etc.)?

IOM and Algeria signed a host country agreement in 2007. According to information from IOM, this agreement cannot be shared with EMHRN without the agreement of the other party, namely Algeria. According to information from NGO sources in Algeria, IOM was due to open an office in Algiers in 2005 but its manager was given no letter of accreditation and the office therefore remained shut.

³⁸ Op. cit. para. 5 et 6.

³⁹ El Watan dated 2 February 2010.

Is IOM staff permitted to move around freely in the country?

Because of the small number of projects developed by IOM in Algeria, this is not a relevant question (see above).

Is the IOM allowed to visit migrant camps? No

Is IOM allowed to enter migrant detention centres / camps? No

IOM has not asked to visit holding centres because it has not been alerted to any particular difficulties which would justify such a request.

What are the various ways in which IOM offers support? How does it deliver this support (local partners, procedures. etc.)?

The work of IOM in Algeria⁴⁰ targets generally the development of agricultural sectors and rural populations in the country. In terms of migration, the agency supports research projects on transit migration in the country and the Maghreb more generally. An example is the study by Professor Hein de Hass entitled "Irregular Migration from West Africa to the Maghreb and the European Union: An overview of Recent Trends."⁴¹

Beyond these projects, IOM offers support in the form of advice, participation in discussions, and other occasional matters.

Does IOM organise voluntary return operations from Algeria? No

⁴⁰ <http://www.iom.int/jahia/Jahia/activities/africa-and-middle-east/north-africa/algeria>

⁴¹ IOM Migration Research Series No. 32, 2008, Geneva.

C. Civil Society Organisations

C.1. Presence and Activities

Main organisations working the field of migration in Algeria:

- **LADDH - Ligue Algérienne de défense des droits de l'Homme (Algerian League for the Defence of Human Rights):** LADDH is a non-political non-governmental organisation. Its purpose is the inclusion of human rights and their defence and promotion in the nation's cultural life. In partnership with UNHCR, LADDH has been involved in the protection of refugees and asylum seekers in urban areas since 2010. This partnership enables intervention by LADDH trained lawyers when refugees and asylum seekers are arrested, and also undertakes awareness-raising initiatives with the police force so that the police are able to recognise the documents issued by UNHCR and no longer arrest people in possession of such documents.
- **SNAPAP - Syndicat national autonome de la fonction publique (Independent National Union of public servants):** In 2012 SNAPAP decided upon and began the implementation of the following measures: early establishment of a regional Observatory to be on the alert for violations of the rights of migrants, refugees and asylum seekers from West Africa (ORAVO); the preparation of an official report on the situation of sub-Saharan migrants in the country; and the setting up of a network of lawyers to provide legal assistance to sub-Saharan migrants, refugees and asylum seekers.
- **Caritas:** Caritas Algeria is the humanitarian arm of ADA, the association of the Catholic Church in Algeria. It takes an interest in the fate of migrants travelling through the country in cooperation with UNHCR and other associations. It offers support to migrants in training programmes which qualify them for active involvement as local tradesmen as well as for a number of professional fields.
- **MdM - Médecins Du Monde (Doctors of the World):** MdM is a humanitarian organisation which set up a mission in Algeria in 2007 to

help women and children who were victims of violence. MDM is involved in the awareness-raising of players operating in the legal and health fields of the situation and specific needs of the migrants. MDM is at the same time starting up a network of healthcare workers who will be encouraged to play a role as mediators within the healthcare systems by receiving and being medically responsible for migrants. They will also map out where migrants are settling in Algeria and carry out a census of healthcare facilities capable of receiving them.

- **NADA - Réseau Algérien pour la Défense des droits de l'enfant (Algerian Network for the Defence of Children's Rights):** The NADA network is an NGO set up in 2004 as an initiative by the Algerian Muslim Scout Movement. Its main aim is to raise awareness amongst associations working on children's issues so as to encourage them to integrate the sensitive question of children's rights into their practices and work objectives. As part of its partnership with UNHCR, the NADA network has been working since January 2010 to get refugee children in Algeria into school so as to ensure their integration into Algerian society.
- **CISP - Comité international de soutien aux populations (International Committee for the Development of People):** CISP is an NGO based in Rome which has an office in Algiers. It initiated a project on human rights in Algeria entitled: "Pour une citoyenneté active" (Towards Active Citizenship) spanning 2009 to 2011. CISP is also interested in raising awareness amongst young people and has signed a partnership agreement with the national association for youth exchanges to start a project aimed at combating urban violence and clandestine emigration.
- **R&D - Rencontre et développement (Meeting and Development):** R&D is a meeting place for listening to and giving advice to migrants. The organisation operates in Algiers and, in addition to providing schooling support for migrant children, also provides emergency food and care to migrants who have applied to immigration authorities and who are unable to return to their country of origin. The association also organises the journey back for those who so wish and tries to facilitate their professional integration in their country of origin.
- **SARP - L'Association pour l'Aide, la Recherche et le Perfectionnement en Psychologie (Association for Support, Research, and Improvement in Psychology):** SARP is a science-based not-for-profit association approved by the Department of Algiers in December 1989. It offers free services which include: psychological care, speech therapy, psychosocial

support, and legal consultations. SARP has done two research projects on clandestine migration, one on sub-Saharan migration and the other on the clandestine migration of unaccompanied minors.

- **SOS Femmes en Détresse (SOS Women in Distress):** SOS Women in Distress is a humanitarian organisations seeking to promote the rights of women. In addition to its partnerships with the UNHCR, the organisation works in partnership with the CISP on a new project of assisted return for migrants seeking to enter Europe via Algeria. This project includes the opening of a reception point for migrants at Tamenrassit, assisting migrants in establishing micro projects and micro enterprises in their country of origin, and assisting women through the return procedure.

Other Comments

Discussions with a number of civil society organisations call for the following comments:

- **The issue of migrants, refugees, and asylum seekers in Algeria, has only very recently become part of the civil society agenda and remains marginal in 2012.** Many explain this in terms of the “dark decade” which in the 1990s spurred Algerians into action against the violation of human rights and atrocities of which they themselves were victims. In this extremely difficult context, the situation of foreigners in Algeria has receded into the background of people's concerns. Ten years later, this fact remains true, even if somewhat less importantly. Associations promoting human rights have developed support activities for certain vulnerable groups of people (the disabled, women), but not for migrants generally. Algerian associations working in this area are therefore rare exceptions.

In addition, many of them are “specialised” in a particular category of migrants - refugees - because they have reached a partnership agreement with UNHCR which delegates to them a portion of refugee support activities. As a result, they no longer have sufficient resources to pursue or extend their activities with other categories of migrants. For undocumented migrants, there are, therefore, very few who speak up for them.

- **The fragility of these associations is noticeable because they face pressure from two sources.** On the one hand is the pressure from the migrants: the ways the associations can help are limited and some of the activities supporting migrants lead them to hope for more than resources allow. From time to time, violent scenes erupt within the associations.

On the other hand, many associations practice a certain self-censorship as they believe that they risk having problems with the authorities if they cross a red line. This seemingly explains why they concentrate on humanitarian work on the ground (food baskets, school clothes, accommodation...) rather than on advocacy on the right of asylum, the rights of migrants, combating racism, etc.)

This is, however, not the only explanation. Given the substantial needs of the migrant and refugee population, the associations naturally concentrate on the most immediate of these needs.

- **Funding is insufficient to respond to needs:** The associations we have met with have not yet explored the possibility of funding from the European Commission. Most are unaware of these possibilities. Some do not want to manage projects financed by the EU because they believe their management would be too onerous and that such projects would mean extending their range of activities. And in spite of the very great need, they consider that by extending what they do, they would attract too many difficulties from the authorities and their achievements to date would thus be put in jeopardy.
- **Absence of dialogue:** There is an absence of dialogue at every level: not only between the associations and the authorities, but also between the associations themselves.

The associations met maintain little or no dialogue with the authorities on the issue of migrants. The associations feel themselves to be tolerated, but not recognised, and fear steps will be taken to prohibit their actions, especially within the context of the former State of Emergency and new law on associations, which reduces the margin for manoeuvre of associations defending human rights. Many operate without the legal approval required for such associations.⁴² Authorities, for their part, seem to be unaware of the role of local organisations, as is illustrated by the reply given by Algeria to the Migrant Workers' Committee which asked it to describe the role played by NGOs in implementing the migrant workers' convention. Algeria's response focused on associations working for the "national community abroad" but not associations working in Algeria for sub-Saharan migrants. Questioned again at the 12th session of the committee in 2010, Algeria states that there are no associations working

⁴² See the EMHRN report: *Lifting the State of Emergency in Algeria - a Game of Smoke and Mirrors*, 2012. See also Me N. Benissad, "A propos de la liberté d'association en Algérie", (On Freedom of association in Algeria) in Errabita, Review of the Ligue algérienne de défense des droits de l'homme, 2nd quarter 2009, pp.32-33.

on migration. The only institution consulted, outside the government, in preparation for this session was the Advisory Council on Human Rights.

In addition, there is no form of collaboration between the associations. There is very little communication between them, indeed, not at all. In this respect, the partnership between CISP and SARP for carrying out the 2008⁴³ study was an exception and it should be noted that CISP is an international organisation. Collaboration between the Algerian associations is therefore at a standstill. In some cases, there is a distrustful attitude; indeed suspicion has the upper hand.

- **Associations are almost non-existent in the south of the country where most of the migrants are.** It is in fact very difficult to operate in the South, especially because of the State of Emergency in force since 1992 and the militarisation of this region arising from the fight against terrorism and the presence of Al Qaïda.

C.2. Violence against Migrant Women

Are there organisations which are tackling the problem of violence against female refugees or migrants through preventative action and readjustment activities? Yes

Identify these organisations and give examples of their activities:

The association SOS femmes en détresse (SOS Women in Distress) in Algiers receives migrant women and offers them psychological support.

⁴³ *Les migrants subsahariens en situation irrégulière en Algérie : caractéristiques, profils et typologie* (Illegal Sub-Saharan migrants in Algeria: characteristics, profiles, and types), op. cit.

D. Reports on the Rights of Migrants, People with Refugee Status and Asylum Seekers

D.1. General Reports

List the reports about violations of human rights to which migrants, refugees and asylum seekers fall victim in the country in question:

Reports:

- SARP - L'Association pour l'Aide, la Recherche et le Perfectionnement en Psychologie (Association for Support, Research, and Improvement in Psychology) and CISP - Comitato Internazionale per lo Sviluppo dei Popoli (International Committee for the Development of People), *Les migrants subsahariens en situation irrégulière en Algérie : caractéristiques, profils et typologie* (Illegal sub-Saharan migrants in Algeria: characteristics, profiles and types), research team: Khaled Noureddine, Hafdallah Rafika, Gharbi Houria, Adam Carine, Musette Saib, November 2008.
- CISP - Comitato Internazionale per lo Sviluppo dei Popoli (CISP) (International Committee for the Development of People), *Réalités migratoires subsahariennes en Algérie* (The Realities of sub-Saharan migration in Algeria), Document written by the CISP-Algeria team and its local agents amongst the migrants, coordination Faical Abdel Aziz, 2008.
- Smaïn Laacher, *Violence sans recours ni secours* (Violence without appeal or help) (provisional title). *Le cas des femmes migrantes au cours de leur voyage interdit* (The case of migrant women during their prohibited journey), editions La Dispute, final quarter 2010.
- Cimade, (Intermovement Committee for Evacuees) *Maroc, Algérie, Mali, Sénégal, Mauritanie, pays d'émigration, de transit et de blocage, Etat des lieux de la situation des migrants en 2008* (Morocco, Algeria, Mali. Senegal, Mauritania, countries of emigration, transit, and logjam), Analysis document, November 2008.
- *Rapport de l'Algérie au Comité pour les droits des travailleurs migrants des Nations Unies* (Algeria's Report to the UN Committee on protection of migrant workers), CMW/C/DZA/1, 22 July 2008.

- *Réponses écrites du Gouvernement algérien concernant la liste des points à traiter (CMW/C/DZA/Q/1) reçues par le Comité pour la protection des droits de tous les travailleurs migrants et des membres de leur famille à l'occasion de l'examen du rapport initial de l'Algérie*, 15 January 2010. (Written responses from the Algerian Government concerning the list of points to be addressed (CMW/C/DZA/Q/1) received by the Committee on protection of all migrant workers and members of their families after the examination of Algeria's initial report)

Reviews:

- *Migrants, Migrance, El Harga* (Migrants, Migration, "El Harga"), *Revue d'études et de critique sociale*, (Review of social studies and criticism), NAQD n° Autumn / Winter 2009, <http://www.revue-naqd.org/doc/index.html>.
- *Errabita*, review of the Ligue Algérienne de Défense des Droits de l'Homme.

Articles:

- Ali Bensaâd, "Les migrations sub-sahariennes en Algérie" (Sub-Saharan migrations in Algeria), *Rapports de recherche CARIM* (CARIM Research Reports), CARIM-RR 2008/01, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI): European University Institute, 2008.
- Hein de Haas, "Irregular Migration from West Africa to the Maghreb and the European Union: An overview of Recent Trends", *IOM Migration Research Series No. 32, 2008*, Geneva.
- Azzouz Kerdoun, "Inventaire des institutions nationales et internationales opérant dans le domaine des migrations internationales en Algérie" (Inventory of national and international institutions operating the field of international migrations in Algeria), *Note d'analyse et de synthèse - module juridique* (Analysis and Synthesis Note - Legal Module), *CARIM-AS 2005/04*, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI): European University Institute, 2005.
- Azzouz Kerdoun, "La loi 08-11 sur la condition des étrangers: mutation des règles juridiques algériennes et leur impact sur la migration irrégulière" (Law 08-11 on the situation of foreigners; changes in Algerian law and their impact on illegal migration), *Note d'analyse et de synthèse - module juridique* (Analysis and Synthesis Note - Legal Module), *CARIM-AS 2009/06*, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI): European University Institute, 2009.
- Hocine Labdelaoui, "Les étrangers en Algérie: vers la constitution de

communautés d'immigrés" (Foreigners in Algeria: towards the constitution of immigrant communities), *Note d'analyse et de synthèse- module socio-politique* (Analysis and Synthesis Note - Socio-political Module), *CARIM-AS 2009/04*, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI): European University Institute, 2009.

- Nasr-Eddine Lezzar, "La nouvelle loi algérienne sur le séjour des étrangers: les stigmates de l'état d'urgence et du tout sécuritaire" (The new Algerian law on foreigners' staying: the scars left by the insecure State of Emergency), in *Errabita* (periodical of the LADDH), 1st quarter 2009.
- Saib Musette, "Le groupe 5+5: un espace de dialogue durable a niveau de la Méditerranée occidentale ?" (The 5+5 group: room for enduring dialogue at a Western Mediterranean level?) in *International Migration Law and Policies in the Mediterranean Context, Round Table, Sanremo, 15-16 December 2008*, International Organisation for Migration, International Institute of Humanitarian Law, pp 141-156.
- Nadji Safir, "The experience of Algeria", in *International Migration Law and Policies in the Mediterranean Context, Round Table, Sanremo, 15-16 December 2008*, International Organisation for Migration, International Institute of Humanitarian Law, pp. 172-192.

Major violations brought to light in the reports in question:

The tightening up of repressive measures against migrants in transit or settled in Algerian territory is reflected in an increase in violations of fundamental human rights.

These violations, affecting the majority of sub-Saharan migrants in Algeria, consist of the following: arrests based on physical appearance, systematic identity checks, passivity of security services (gendarmes, police) with regard to abuse committed against migrants, illegal arrest even inside hospitals, rape of migrants without prosecution of the perpetrators, impossibly high prices for lodging, looting of migrants' homes arising from the lack of action by security services, refusal to issue work permits or residence permits, refusal to enrol their children in school, prompt pursuit of legal proceedings without interpreters or defence, and the malnutrition of children and babies.

D.2. Violence towards Migrant Women

Are there any reports which deal with the problem of violence against female refugees and migrants in the country concerned?

Yes

List the most significant reports:

- SARP- L'Association pour l'Aide, la Recherche et le Perfectionnement en Psychologie (Association for Support, Research, and Improvement in Psychology) and CISP - Comitato Internazionale per lo Sviluppo dei Popoli (International Committee for the Development of People), *Les migrants subsahariens en situation irrégulière en Algérie : caractéristiques, profils et typologie* (Illegal sub-Saharan migrants in Algeria: characteristics, profiles and types), research team: Khaled Noureddine, Hafdallah Rafika, Gharbi Houria, Adam Carine, Musette Saib, November 2008: see Chapter IV entitled "la migration subsaharienne au féminin" (Sub-Saharan migration for the female).
- CISP - Comitato Internazionale per lo Sviluppo dei Popoli (CISP) (International Committee for the Development of People) *Réalités migratoire subsahariennes en Algérie* (The Realities of sub-Saharan migration in Algeria), Document written by the CISP-Algeria team and its local agents amongst the migrants, coordination Faical Abdel Aziz, 2008.
- Smaïn Laacher, *Violence sans recours ni secours* (Violence without appeal or help) (provisional title). *Le cas des femmes migrantes au cours de leur voyage interdit* (The case of migrant women during their prohibited journey), éditions La Dispute, final quarter 2010.

List the various kinds of violence that female refugees and migrants face in the country:

Of note, according to the reports available, is the increasing number of female sub-Saharan migrants and the increasingly significant presence of families with children.

Female migrants generally have a "protector" whom they call their husband even if they are not married. This "protector", who is met en route or once in Algeria, is sometimes very violent, as illustrated by the testimonies of women collected by SARP and CISP.⁴⁴

Women are sometimes exploited due to the fact that, statistically, refugee status is more easily recognised for couples and families than for individuals and that controls are less systematic and less tough on families, women and their children.

⁴⁴ See Chapter IV entitled "la migration subsaharienne au féminin" (Sub-Saharan migration for the female) in the report *Les migrants subsahariens en situation irrégulière en Algérie : caractéristiques, profils et typologie*, op. cit.

Appendix I: Main Civil Society Organisations operating in the field of Migration and Asylum

Name of organisation	Status	Type of activity / service	Target population	Contact Details
LADDH - Ligue Algérienne de Défense des Droits de l'Homme (Algerian league for the defence of human rights)	Association	Advocacy, awareness raising and legal help	Refugees, migrants, asylum seekers,	05, rue Pierre Viala (Frères Alleg), Sidi M'hamed, Algiers Tel: + 213 (0)21 23 80 86 Fax: + 213 (0)21 23 80 86 Email: contact@la-laddh.org
SNAPAP - Syndicat national autonome de la fonction publique (Independent national union of public servants)	Independent trade union	Advocacy, awareness raising legal assistance	Migrants	48 Rue des Aurès (ex Rue de La Bastille), Oran Tel: + 213 41 33 69 48 Mobile: +213 771 535 323
Caritas	Presence tolerated	Advice and material support	Refugees and migrants	22, Chemin d'Hydra - 16030 El Biar, Algiers Tel/Fax: +213 (0) 21 52 58 55 E-mail: caritas@caritas.dz
MdM - Médecins Du Monde (Doctors of the World)	NGO	Support and medical aid	Sub-Saharan migrants	17 Bd Ibn El Khatib, Algiers
Nada Network	Association	Social assistance	Asylum seekers and refugees	Address: 102, rue Didouche Mourad, 16000 Algiers Tel/Fax: (021) 74 14 71/0561 66 64 79

COUNTRY FACT SHEET: ALGERIA

CISP-Comité international de soutien aux populations (International Committee for the Development of People)	NGO	Listening and support	Migrants	8, rue Semghouni, Kouba, Algiers Tel: + 213 21 77 56 71 and 72 Fax: + 213 21 77 56 73 Email: pcpa_algerie@yahoo.fr
Rencontre et développement (Meeting and Development)	NGO	Listening and support	Migrants	12 bis, Rue des Freres Meslem, 16000 Algiers Tel: +213 61 53 92 73 +213 21 68 36 00 Email: heuft@ifrance.com
SARP - L'Association pour l'Aide, la Recherche et le Perfectionnement en Psychologie (Association for Support, Research, and Improvement in Psychology)	Association	Psychological care for people suffering or in difficulty	Migrants	Address: 27, rue du Boulodrome Dely Ibrahim, Algiers Tel. / Fax. : +213 21 91 92 14 +231 21 91 98 26 E-mail : sarp.sarp@gmail.com Website: www.sarpsy.com
SOS Femmes en Détresse (SOS Women in Distress)	NGO	Listening and Support	Migrants and refugees	Address : BP146, Ben Aknoun, Algiers Tel: +213 21 929922 Email: sosfemmes@hotmail.com Centre for legal and psychological support: +213 21 926076 Reception and accommodation centre: +213 21 668725 and +213 21 667430



EURO-MEDITERRANEAN HUMAN RIGHTS NETWORK
RÉSEAU EURO-MÉDITERRANÉEN DES DROITS DE L'HOMME
الشبكة الأوروبية - المتوسطية لحقوق الإنسان

Vestergade 16 - 1456 Copenhagen K - Denmark
Telephone: + 45 32 64 17 00 - Fax: + 45 32 64 17 02
www.euromedrights.org

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