

الجمهورية الجزائرية الديمقراطية الشعبية
REPUBLIQUE ALGERIENNE DEMOCRATIQUE ET POPULAIRE



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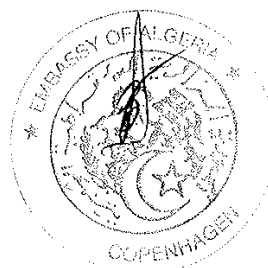
NOTE VERBALE

The Embassy of the People's Democratic Republic of Algeria in Copenhagen presents its compliments to the Parliament of the Kingdom of Denmark - the Foreign Affairs Committee -, and has the honor to forward herewith, a non-paper regarding the draft resolution on "the imprisonment of activists and workers human rights in Algeria", which will be voted on the 30th of April 2015, during the current plenary session of the European Parliament.

Therefore, the Foreign Affairs Committee of the Danish Parliament is kindly asked to communicate these information and clarifications to the Danish MEPs in order to consider them before the voting of that resolution.

The Embassy of the People's Democratic Republic of Algeria in Copenhagen avails itself of this opportunity to renew to the Parliament of the Kingdom of Denmark - the Foreign Affairs Committee -, the assurance of its highest consideration.

The Parliament
The Kingdom of Denmark



Non-paper:

With the view of the debate and the adoption of a resolution regarding “the imprisonment of activists and human rights workers in Algeria”, during the current plenary session of the European Parliament, in Strasbourg, it should be noted the following information concerning the conditions under which the persons concerned have been apprehended by the police, the underlying reasons and the legal procedures in force in Algeria for the preservation of public order.

Overview of the facts:

- In the course of an arrest operation conducted following the dismantling of an organized vehicle theft network, the named Mohamed Regue, a well-known fugitive from justice, for his repeated actions causing public obstruction, was arrested on the 22nd of January 2015 and has been presented to the judge and remanded in custody on the 25th of the same month and sentenced on the 28th of January, 2015 to 18 months in jail.
- At Mohamed regue’s trial, on the 28th of January 2015, the named Khencha Belkacem, a radical Salafist element and his seven companions, all of them are members of the National Council for the Defence of the Rights of Unemployed, have tried a resounding action by blocking the courthouse’s access with the obvious aim of influencing justice.
- They have been arrested on the 28th of January 2015 for disturbing public order and obstruction of justice. They have been presented to the investigating judge on the following day and put in custody and sentenced by the court on the 11th of February 2015 to 12 months in prison with six suspended months.
- The Algerian League for the Defence of Human Rights that Khencha Belkacem claims to represent it locally, knows an organic conflict of leadership and the National Council for the Defence of the Rights of Unemployed is a non-approved organization.

The articles of the Algerian Criminal Code applied:

Art. 148 (excerpt). Shall be punished by imprisonment of two (2) years to five (5) years anyone who commits violence or assault on a magistrate, an official, a public officer, a commander or agent of the police force while performing his duties or upon this performance.

Art. 147 (excerpts) - the authors shall be exposed to sentences imposed by the subparagraphs 1 and 3 of Article 144:

- 1- actions, publicly spoken or written words, which, until a case has not been irrevocably judged, were intended to put pressure on the judges' decision;
- 2.- actions, publicly spoken or written words that tend to discredit judicial decisions and which are likely to undermine the authority of justice or its independence.

Art. 97. (excerpts) – prohibited on public roads or in public places:

- 1) - fully armed gathering;
- 2) - any unarmed gathering that may disturb the public peace (...).

The representatives of the police, called to disperse an unlawful gathering or to ensure the enforcement of an Act, of a judgment or a judicial warrant, may use force if violence or assault is committed against them or if they cannot otherwise defend the land they occupy or the positions entrusted to them.

In any other case, the gathering shall be dispersed by force after the Wali or District Chief, the President of the People's Municipal Assembly or one of his deputies, a police commissioner or any other judicial police officer bearing the insignia of his office:

- 1- announces his presence by an audible or light signal with a nature to effectively warn individuals constituting the gathering;
- 2- calls upon the persons participating in the gathering to disperse, using a speaker or using a sound or light signal with a nature to also effectively warn the individuals constituting the gathering;
- 3- proceeds, in the same way to a second warning if the first warning remained without a result.

Art. 98 (excerpts). - Shall be punished by imprisonment of two (2) months to one (1) year any unarmed person who, as part of an armed or unarmed gathering, did not give in after the first warning. The imprisonment shall be of six (6) months to three (3) years if the unarmed person continued to be part of an armed gathering that was dispersed only when force was used. Those convicted may be punished by a sentence prohibiting the use of the rights mentioned in Article 14 of this Code.

Efforts made by the Algerian Authorities for the benefit of young people, especially the unemployed

In the pursuit of economic and social achievements within the framework of the three previous five-year programs, which will continue in the next 2015-2019 plan with a budget of USD 262.5 billion, a special emphasis will be placed on supporting young people, especially the unemployed, and all this through: consolidation of devices and public employment support mechanisms, creation of activities by young project promoters (an annual average of 70,000 micro-enterprises are financed from the state budget through concessional loans or at 0% rate), and maintenance of the social safety net (social transfers from the public investment to social sectors are around 40% in the form of subsidies for basic products).

It should be noted that the unemployment rate in Algeria decreased from 29.8% in 2000 to 10.6% in 2014, in other words over a million and a half job positions were created. In this context, the importance of the decreased rate of unemployment of graduates must be noted, getting from 21.4% in 2010 to 14.3% in 2013.

As part of the 2015-2019 plan the promotion of employment and the fight against unemployment will be one of the strategic objectives of the national development policy by funding 450,000 micro-enterprises, which can generate 900,000 additional jobs, or an annual average of 90,000 financed micro-enterprises and 180,000 potential jobs.

Associations Act

Consolidation of the legal framework ruling the exercise of the right of association is one of the cornerstones of the political reform process undertaken since 2011 through the Act 12-06 of 12 January 2012 on associations. **On 31 December 2013, 104,467 associations complied with this Act.**

The association movement is involved in the compliance phase with the provisions of this Act which provides, among other things, for prospects for partnerships and access to foreign funding as part of the diversification of their funding sources (art. 23 of the Act 12-06).

The prior approval required for foreign funding of associations is not in any way an obstacle to this type of financing but it operates in the interests of transparency, traceability and compatibility of the funding with the association's mandate and the nature of the funded project.

It should be noted in this context that the reduction of the accreditation system of the international organizations wishing to be established in Algeria, was the subject of a comprehensive reflection that led the government to provide, on an ad hoc basis and in each case, for adjustments to the Act 12-06 in order to allow some NGOs to continue their work in the field (for example: the National Democratic Institute).

Art. 23. Associations may cooperate within the framework of partnership with foreign associations and international non-governmental organizations with the same goals, respecting the values and national constants and legislative and regulatory provisions in force. This cooperation between parties is subject to a prior approval by the competent authorities.

Freedom of expression and assembly

Maintaining the ban on assemblies in the capital city of Algiers is dictated by the concern to preserve public order and the safety of citizens because of the density of the population and the urban configuration of the city of Algiers.

In other cities of the Algerian territory, assemblies and sit-ins are held regularly and tolerated. The sense of responsibility and professionalism used by the police in dispersing the crowds, especially knowing that the organisms established by law usually have the highest number of casualties in the operations conducted by them, on strict instructions and without being equipped with lethal weapons, is to be noted.

On freedom of expression, it should be noted that Algeria has adopted the Act n°12-05 on information that strengthens the citizens' right to information and freedom of expression in accordance with the diversity of opinions.

This organic law sanctions particularly the decriminalization of press offenses, improving the social and professional status of journalists, a reduced procedure for creating publications, the possibility to open private capital audiovisual media service and to set up two independent regulatory authorities, one for the printing press and the other one for the audiovisual media service and a High Council of Ethics and Professional Conduct whose members are elected by journalists. These advances were also welcomed by the UN special Rapporteur on freedom of opinion and expression during his visit to Algeria in 2011.

It must be noted that during her visit to Algeria, Mrs Navi Pillay, in September 2012, former High Commissioner for Human Rights, made a declaration regarding the state of public freedoms in Algeria: "media's freedom of expression has improved considerably over the past few years leading to a local, fiery and rather fearless press investigation. Similarly, the new emerging political freedoms are clearly illustrated by the large number of political parties represented in the Parliament. "

She added that: "other important positive points were to be noted on the front line of human rights such as the focus on the improvement of social and economic rights by increasing the capacity of schools and universities, the gigantic projects designed to provide water and energy to the poor regions and under-financed in the south and the proposed construction of 1.5 million new social housing units over a period of five years. (...). If she is successful in this undertaking, continuing to advance women's rights, making a serious effort to address the distressing potentially very damaging phenomenon of the youth unemployment and correcting some other issues, Algeria is well placed to play a leading role to inspire in the field of human rights in the region and beyond."

Freedom of association (Trade union organizations)

The manner of exercising the right to association is organized by the Act n°90-14 of 2 June 1990. Algeria currently has 94 trade unions for defending sectoral or professional rights, including a dozen that have been approved since 2012.

In terms of labour relations, the legislation provides for a social dialogue and a collective negotiation. These principles have enabled the signing of 300 company collective agreements, 80 sector-based collective agreements, 16,000 company collective bargains, and 156 sector-based collective bargains.

It is worth noting that the tripartite meetings between the representatives of the State, unions of workers and employers, provide a framework for consultation and social dialogue to address broader economic and social issues in full transparency. This space for dialogue has resulted, among other things, the signing of the National Economic and Social Pact, which enabled the social partners to sign with the Government of the Economic and Social Growth Pact in February 2014, a copy of which was given to the Director General of the ILO in November 2014.

Furthermore, the Labour Code is being revised in coordination with social partners and in compliance with the international standards and rules.

Coordination and cooperation with the UN mechanisms of human rights

Algeria maintains a policy of cooperation and openness to non-conventional mechanisms of human rights. In March 2010 she launched invitations to seven thematic mandate holders, under the Council of Human Rights to conduct visits to Algeria.

To this date, four Special Rapporteurs out of the seven invited ones made information visits to Algeria. Those are:

- Mrs Rashida Manjoo, Special Rapporteur on violence against women, its causes and consequences (1-19 November 2010);
- Frank La Rue, Special Rapporteur on freedom of opinion and expression (8-18 April 2011);
- Mrs Raquel Rolnik, Special Rapporteur on adequate housing (9-19 July 2011);
- Mr Sing, Special Rapporteur on the right to education from 27 February to 3 March 2015.

Three other mandate holders invited to visit Algeria did not turn up. Those are:

- Special Rapporteur on the right to food;
- Special Rapporteur on the right to safe drinking water and sanitation;
- Special Rapporteur on everyone's right to the enjoyment of the highest attainable standard of physical and mental health.

The organization of a visit for the United Nations working group on "the forced disappearances" launched in December 2013 is the subject of an exchange between the Government and this mechanism. The realization of this visit will take place once the terms of reference between the two parties are finalized.