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Report of the Working Group on the Universal Periodic Review*

Algeria

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

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Response of the Government of Algeria to the recommendations made by States following the consideration of the report within the framework of the third cycle of the universal periodic review

1. The Government of Algeria wishes to thank the States members and observers of the Human Rights Council for the interest they have shown in the report submitted within the framework of the third cycle of the universal periodic review.
2. It welcomes the spirit of dialogue surrounding the intense discussions, which provided an opportunity to share information on achievements and the progress made since the presentation of the second national report in May 2012 and to provide clarification relating to the questions posed prior to and during the interactive exercise.
3. As has been pointed out, the Government responded positively to almost all of the recommendations made during the second cycle. It provided a true reflection of both its accomplishments and the challenges facing it under regional and international circumstances that the delegation had sought to explain.
4. The 229 recommendations addressed to the Government were closely examined by the interministerial group responsible for the preparation of and follow-up to the national report. It was found that many of the recommendations overlap and had been dealt with during the interactive discussion.
5. In the light of the above, the Government has decided to respond by taking the following action on the recommendations below.

I. Accepted recommendations

6. 15, 41, 42, 43, 45, 46, 47, 49, 50, 51, 52, 53, 54, 55, 56, 68, 70, 71, 76, 82, 83, 84, 85, 86, 92, 93, 94, 95, 96, 99, 102, 106, 107, 108, 109, 111, 112, 113, 114, 115, 116, 117, 119, 120, 121, 122, 123, 127, 129, 141, 144, 145, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 171, 172, 173, 178, 180, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 202, 203, 204, 205, 209, 211, 212, 213, 214, 215, 216, 217, 218, 219, 222, 223, 224, 225, 226, 227 and 229.

II. Accepted recommendations considered to be already implemented

7. The recommendations listed below have been accepted but are considered to be already implemented: 26, 27, 28, 29, 32, 33, 34, 35, 36, 37, 38, 39, 40, 44, 48, 57, 58, 59, 66, 67, 69, 77, 78, 79, 80, 81, 90, 91, 98, 104, 105, 110, 118, 124, 125, 126, 128, 133, 134, 135, 136, 137, 138, 139, 140, 142, 143, 146, 174, 175, 176, 177, 179, 181, 182, 196, 199, 200, 206, 207, 208, 210, 220 and 228.
8. Recommendations 26 and 27: Algeria cooperates in good faith with all treaty bodies and the mechanisms of the Human Rights Council. It has already responded and continues to respond to requests from the Human Rights Committee. Likewise, it is now discussing the proposal made by the Working Group on Enforced or Involuntary Disappearances in December 2013 for a visit to Algiers with a view to finalizing the terms of reference.
9. Recommendation 28: When selecting candidates, Algeria takes full account of any skills that might bring added value to the work of the treaty bodies or the Council. University lecturers, academics and civil society actors are encouraged to put themselves forward as candidates.
10. Recommendation 29: Algeria cooperates fully with the special procedures of the Human Rights Council. In 2010, the Government extended an invitation to seven human rights mandate holders. The Special Rapporteur on the right to food and the Special

Rapporteur on the human rights to safe drinking water and sanitation are expected to make visits.

11. At the time of the consideration of its third report, Algeria extended a further six invitations to special procedures.

12. Recommendations 32 to 38: In all matters relating to democratic freedoms, human rights, the rule of law and governance, the parliament takes into account all ratified treaties when drafting legislation. This principle is observed by virtue of the fact that ratified treaties prevail over national laws and the Constitutional Council may quash a national law if it determines that the law is not in conformity with the ratified treaties.

13. Recommendations 39 and 40: The 2016 Constitution upgraded the National Human Rights Council (formerly the National Consultative Commission on the Promotion and the Protection of Human Rights) by granting it constitutional status and administrative and financial independence, in accordance with the Paris Principles. Operational since November 2016, the Council works to promote and protect human rights and is responsible for monitoring, early warning procedures and human rights assessments.

14. Recommendation 44: The Children's Ombudsman was set up under Act No. 15-12 of 15 July 2015. Since then, the relevant regulatory framework put in place has enabled the Office of the Ombudsman, which reports to the Prime Minister, to carry out its task of coordinating and assessing national and local programmes for the protection and promotion of the rights of the child.

15. Recommendation 48: Algeria has already established mechanisms to prevent and combat corruption and has been working to strengthen the legal framework for punishing this criminal practice through the following: the enactment of a decree (Executive Decree No. 15-153 of 16 June 2015), which sets the rules for payment through banking and financial channels and all criminal proceedings against offenders; the adoption of a law on preventing and combating corruption, in February 2006, as amended in 2010 to take into account the various developments and new phenomena linked to this scourge; and the revision of the Criminal Code, the Criminal Procedure Code and the Public Procurement Code, which is designed to make entering into and completing government transactions more transparent.

16. The State ensures that judicial inquiries involving persons suspected of corruption are carried out and organizes training courses for judges, public prosecutors and law enforcement officials on preventing and combating this phenomenon. The obligation imposed on high-level public servants to submit a declaration of assets was extended in 2017 to those having or discharging responsibilities likely to come up against that scourge.

17. Recommendations 58 and 59: The Criminal Code (Order No. 66-156 of 8 June 1966) was amended by Act No. 14-01 of 4 February 2014, which introduced new provisions relating to the fight against discrimination to two articles.

18. Under article 295 bis (1) of the Criminal Code, the offence of discrimination is defined in accordance with article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination. The article stipulates that perpetrators of the offence of discrimination are punishable by imprisonment and a fine. The same penalties apply to any person who publicly incites hatred or discrimination against a person or a group of persons on the basis of their racial or ethnic origin, or who organizes, disseminates, encourages or carries out propaganda activities for this purpose.

19. Similarly, any legal person that commits an act of discrimination incurs a fine, without prejudice to any penalties applicable to its directors.

20. Recommendations 66, 67, 133, 140, 142, 143, 146 and 220.¹

21. Recommendation 69: Algeria remains firmly committed to the fight against terrorism. In the absence of a definition unanimously agreed upon at the international level, Algeria has adopted legislation on terrorist acts covered by the Criminal Code and the Criminal Procedure Code that is in accordance with ordinary law. Acts of terrorism are handled by ordinary courts with extended territorial jurisdiction, on which specially trained judges sit.

22. Recommendations 77 to 80:² Several preventive and punitive measures have been taken to ensure that prisoners are protected against torture and any other form of ill-treatment.

23. Recommendation 81: The independence of the judiciary is enshrined in the Constitution, article 138 of which states that the judiciary is independent of the executive and the legislative branches of power. A comprehensive legal framework has been put in place, under which judges must guard against any attitudes liable to undermine their impartiality, and which protects them from any form of pressure, interference or manoeuvring liable to have a negative impact on the accomplishment of their tasks or respect for their free will. Moreover, judges have legal protection against abuse, threats, insults and any type of attack to which they may be subjected for having carried out their duties, even after retirement.

24. Recommendations 124, 125, 126 and 128: A number of steps have been taken to combat trafficking in persons, including the criminalization of all acts linked to trafficking in persons under the Criminal Code, which provides for extremely severe penalties against the perpetrators of such offences even though instances of trafficking in persons remain few and far between in Algeria, the provision of free legal assistance for victims to enable them to assert their rights before the Algerian courts, the preparation of training programmes for judges, public prosecutors and security service personnel and the setting up, in 2016, of the National Committee for Preventing and Combating Trafficking in Persons, which is responsible for putting in place an action plan for preventing and combating trafficking in persons and victim protection.

25. Recommendations 133 to 139.³

26. Recommendations 174, 175, 176, 177, 179, 181 and 182.⁴

27. Recommendations 206, 207, 208 and 210: All children born in the national territory, without distinction, are required by law to be registered in the civil registration records, including children born out of wedlock and children born to refugee or migrant parents.

28. In 2000, Algeria launched a large-scale plan for the modernization and humanization of prison facilities, which, on completion, will ensure that the relevant international standards are met. There are no detention facilities in Algeria where children or young people are kept with adults.

29. Recommendation 228: Algeria is a welcoming country and hosts Sahrawi refugees living in camps near Tindouf, doing everything possible to provide them with support and assistance. These refugees, who enjoy fundamental rights, fall under the mandates of the relevant humanitarian organizations. Those bodies have offices and branches in the refugee camps, which are visited by foreign observers from around the world on a regular basis.

30. Algeria is in favour of extending the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO) to cover human rights issues.

III. Partially accepted recommendations

31. The following recommendations have already been partially implemented.

32. Recommendation 2 (partially accepted): “Ratify the international human rights instruments to which it is not yet a party” (part noted) (the rest is accepted and considered to be already implemented).

33. Algeria is a party to almost all the international human rights instruments. Its accession to further international instruments is examined within the framework of a constant and gradual process that takes account of the implications of those ratifications in terms of consistency and adaptation of domestic legislation and practice.

34. Recommendations 16 and 17 (partially accepted) (some of the reservations will gradually be withdrawn).

35. Algeria has already withdrawn a number of its reservations to the Convention on the Elimination of All Forms of Discrimination against Women, and other articles will gradually come under review. A working group has been set up to that end and is responsible for identifying reservations for reconsideration.

36. Recommendations 62, 131, 132 and 169 (partially accepted). 62: “including discrimination based on sexual orientation and gender identity” (part noted) (the rest is accepted and considered to be already implemented). 131: “including the modification of discriminatory provisions of the Family Code” (part noted) (the rest is accepted). 132: “Reform the Family Code” (part noted) (the rest is accepted). 169: “in all areas” (part noted) (the rest is accepted).

37. Algeria has no laws that discriminate against any group of persons. Since its independence, Algeria has repealed the discriminatory laws and regulations that existed. The principle that all citizens have equal rights and duties and that they all enjoy equal protection under the law is enshrined in the Constitution.

38. Like other culturally similar States, Algeria draws on sharia law with regard to issues of personal status. The Family Code has been amended on numerous occasions and a working group has been set up to see what improvements can be made to bring it into line with the changes that Algerian society is experiencing.

39. Recommendations 73 and 75 (partially accepted). 73: “as a first step towards its abolition” (part noted) (the rest is accepted and considered to be already implemented). 75: “with a view to abolishing it” (part noted) (the rest is accepted).

40. Algeria has observed a de facto moratorium on the carrying out of the death penalty since September 1993 and has introduced reforms to the Criminal Code under which use of the death penalty is restricted to the most serious offences. Custodial sentences have replaced the death penalty under the Criminal Code for the offences of armed robbery, illicit drug trafficking, arson, aggravated theft, counterfeiting and smuggling.

41. Death sentences handed down are normally commuted to life imprisonment pursuant to a final judgment.

42. Recommendations 87, 88 and 89 (partially accepted).⁵ 87: “end the arrests and public defamation of the Ahmadi community for practicing their religion” (part noted) (the rest is accepted). 88: “especially the Ahmadi minority, which suffers from continued persecution” (part noted) (the rest accepted). 89: “including for Ahmadi Muslims, and provide that community with the accreditation it needs to worship openly and in compliance with Algerian law” (part noted) (the rest is accepted).

43. Article 42 of the Algerian Constitution of March 2016 states: “Freedom of conscience and freedom of opinion are inviolable. Freedom of worship is guaranteed in accordance with the law.”

44. Religious holidays, whether Muslim or Christian, are celebrated in Algeria. They are the subject of radio broadcasts and are defined as statutory days of rest (paid non-working days) under Act No. 63-278 of 26 July 1963, as amended. This provision reflects the traditional tolerance and openness towards other religions displayed by the Algerian people throughout their history.

45. The Algerian citizens professing to be “Ahmadis” who are standing trial are prosecuted for violations of the law and not for their religious beliefs. The legal proceedings brought against them involve the setting up and membership of a non-registered association, the exercise of a regulated profession, the unauthorized taking of collections, the disturbance of public order and safety, the distribution of subversive materials, unauthorized gatherings in secret locations and the construction of buildings without a permit.

46. There are no prisoners of conscience in Algeria, nor is any person subjected to harassment on the grounds of religious affiliation. It should be recalled that, under Algerian law, the act of converting from Islam to another religion by an Algerian carries no penalties whatsoever.

47. Recommendations 97, 100, 101 and 103 (partially accepted).⁶ 97: “in particular those defined as ‘insult’, ‘contempt’ or ‘defamation’” (part noted) (the rest is accepted). 100: “decriminalize defamation” (part noted) (the rest is accepted). 101: “without restriction” (part noted) (the rest is accepted). 103: “with prison terms” (part noted) (the rest is accepted).

48. Recommendation 201 (partially accepted):⁷ “in all settings” (part noted) (the rest is accepted).

49. Child protection is regulated by the Child Protection Act 15-12 of 15 July 2015, which puts in place judicial, regulatory and administrative mechanisms aimed at safeguarding children’s rights.

50. Recommendation 197 (partially accepted):⁸ “Repeal article 326” and “the same status” (parts noted) (the rest is accepted and considered to be already implemented).

51. There is no legal provision in the Criminal Code that allows for perpetrators of rape to escape justice by marrying their victims.

IV. Noted recommendations

52. 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 18, 19, 20, 21, 22, 23, 24, 25, 30, 31, 60, 61, 63, 64, 65, 72, 74, 130, 170, 198 and 221.

53. The Government of Algeria does not endorse these recommendations because a number of them are contrary to the Algerian Constitution or undermine the values and rules that bind together Algerian society, while others are presented in mandatory or even intrusive language.

Notes

¹ Concernant les recommandations 66, 67, 133, 140, 142, 143, 146, 220: La politique sociale de l’Etat se propose de donner les mêmes opportunités et les mêmes avantages à l’ensemble des citoyens quel que soit le lieu de leur implantation géographique. L’Etat consacre en moyenne 30% du PIB à la politique sociale et à la solidarité nationale. Les transferts sociaux couvrent aussi bien l’éducation, la culture, la santé, le logement, la sécurité sociale, l’eau, l’assainissement et l’énergie. Outre les plans quinquennaux et de relance de l’économie aux dividendes indéniables sur le développement humain, l’Etat met en œuvre des programmes spéciaux additionnels au profit de certaines wilayas. Cette démarche vise à sédentariser la population en offrant le même service partout, décourageant ainsi l’exode vers les grands centres urbains et surtout faire bénéficier l’ensemble de la communauté nationale des produits des revenus.

L’Etat consacre une part importante du budget pour la promotion de la santé en Algérie. Le droit à la santé est un droit constitutionnel. L’accès à la santé est gratuit et non discriminatoire. Il est ouvert aux étrangers quel que soit leur statut de résidence, et la carte sanitaire couvre l’ensemble des régions du territoire national.

Le Gouvernement s’est doté d’un nouveau modèle de croissance économique 2016-2030 qui trace, dans une première étape, la trajectoire budgétaire soutenable pour la période 2016-2019 et préconise par la suite d’engager des réformes structurelles profondes jusqu’à l’horizon 2030 afin de sortir progressivement de la dépendance des hydrocarbures, à la faveur d’une politique économique visant à : Placer l’entreprise au centre de la politique économique et généraliser les critères de performance dans la gestion des grandes entreprises nationales ; Renforcer les capacités de gouvernance des administrations économiques de l’Etat et Instituer l’évaluation des politiques publiques.

² Concernant les recommandations 77, 78, 79, 80 : Plusieurs mesures ont été prises tant sur le plan préventif que sur le plan répressif, pour assurer la protection des détenus contre la torture ou tout mauvais traitement:

- *Sur le plan préventif*: la garde-à-vue a été encadrée de manière drastique dans le code de procédure pénale (durée, contrôle par les magistrats du Parquet, examen médical, communication avec la famille, conditions matérielles et de dignité) ; une instruction interministérielle a été diffusée en 2001, pour réaffirmer le pouvoir hiérarchique de l’autorité judiciaire sur la police judiciaire;
- *Sur le plan répressif*: on notera la criminalisation de la torture dans le code pénal, avec une aggravation de la peine lorsqu’elle est le fait d’un fonctionnaire qui l’exerce, la provoque ou l’ordonne dans le but d’obtenir des aveux; est également justiciable du tribunal criminel, le fonctionnaire qui passe sous silence les faits sus-mentionnés; des poursuites ont été engagées

chaque fois que des cas de mauvais traitements sont parvenus à la connaissance des magistrats du Parquet.

S'agissant de la formation en matière de droits de l'homme, les différents programmes de formation au sein des établissements du Ministère de la Justice prévoient des modules en formation initiale ou en perfectionnement et un recyclage à l'ensemble des magistrats. Les services de sécurité et de l'administration pénitentiaire ont également intégré le chapitre droits de l'homme dans les enseignements pour les officiers, les sous-officiers et les agents chargés de l'application de la loi. S'agissant de la décennie 1990, l'Algérie a vécu une crise sécuritaire, induite par le terrorisme. Afin de fournir une réponse aux conséquences de cette dernière, l'Algérie a opté pour un mécanisme national interne de traitement et de sortie de crise qui a été soumis à l'approbation du peuple: la Charte pour la Paix et la Réconciliation nationale. Au sens de la Charte, la réconciliation nationale n'est ni un processus individuel, ni une excuse pour le pardon dans l'oubli et l'impunité, mais une forme de justice transitionnelle, adaptée au contexte de l'Algérie.

³ Concernant les recommandations 133, 134, 135, 136, 137, 138, 139:

L'Algérie a pris la mesure du défi démographique et a élaboré une stratégie afin de tirer profit des dividendes qu'il représente. En avril 2008, le Gouvernement a adopté le plan d'action pour la promotion de l'emploi et la lutte contre le chômage, qui s'articule autour d'objectifs visant à : lutter contre le chômage en favorisant le soutien à l'investissement générateur d'emplois par des mesures fiscales et parafiscales et la bonification du taux d'intérêt; développer les compétences liées à l'emploi par des mesures de formation; développer l'offre d'emploi directement à travers des programmes d'entrepreneuriat et promouvoir l'efficacité des institutions du marché du travail pour parvenir à une adéquation entre la demande d'emplois et l'offre des entreprises dans le cadre de l'intermédiation.

Ces dispositifs ont permis un accroissement de la population occupée, puisque pas moins de 1.800 000 emplois pour les jeunes ont été créés durant la période 2008–2015.

Le gouvernement a initié des mesures impliquant les administrations centrales et locales, le secteur bancaire et la société civile qui se sont déclinées en différents dispositifs d'insertion dans le monde de l'emploi à travers l'entrepreneuriat en faveur des jeunes qui touche l'agriculture, les TIC et l'artisanat. Cette politique a permis la création de centaines de milliers de micro-entreprises. Elle complète l'effort de formation et d'enseignement professionnels et d'insertion des jeunes.

⁴ Concernant les recommandations 174, 175, 176, 177, 179, 181, 182:

Les modifications du code pénal intervenues en vertu de la loi n°15-19 prévoient des nouvelles dispositions portant incrimination de certains faits qui portent atteinte à la dignité et l'intégrité physique ou psychique de la femme.

La violence conjugale, la violence physique, les voies de fait, la violence verbale ou psychologique répétée, l'abandon de famille, le fait d'importuner une femme dans un lieu public, par tout acte, geste ou parole portant atteinte à sa pudeur, toute agression, commise par surprise, violence, contrainte ou menace portant atteinte à l'intégrité sexuelle de la victime, le harcèlement sexuel par tout acte, propos à caractère ou insinuation sexuelle, sont sévèrement punis par la loi.

La prise en charge des femmes et des filles victimes de violence s'effectue à travers le dispositif d'écoute, d'orientation, d'accompagnement et de réinsertion renforcé à travers tout le territoire national. Des équipes multidisciplinaires, composées de psychologues, de médecins, de juristes et d'assistants sociaux, placées au niveau de l'ensemble des Wilayas, se chargent de l'accueil et de l'orientation des femmes en détresse. A cela s'ajoutent: le Numéro vert (1527); l'espace de médiation familiale et sociale et le dispositif de consulting familial.

⁵ Le commentaire concerne également les recommandations 90 et 91.

⁶ Concernant les recommandations 97, 100, 101, 103 (le commentaire concerne également les recommandations 98, 104, 105, 110 et 118):

La Constitution 2016 a apporté de nouvelles garanties à l'exercice à la liberté d'information et d'expression puisqu'aucune peine privative de liberté ne peut être désormais prononcée contre un professionnel de l'information. De même, la liberté de manifestation pacifique a été consacrée.

La loi sur l'information et celle sur les associations, promulguées en 2012, sont de nature à consolider la réalisation du droit à la liberté d'opinion et d'expression, ainsi que de celle du droit à la liberté d'association. Elles répondent parfaitement aux standards internationaux en la matière.

Le parachèvement de la mise en place des organes de gouvernance de la presse se fera à travers, d'une part, l'installation de la future Autorité de Régulation de la Presse Ecrite (ARPE) et, d'autre part, l'élection des membres du Conseil Supérieur de l'Ethique et de la Déontologie en vue de permettre l'instauration d'un code de l'éthique et de la déontologie en matière d'information.

Il y a lieu de mentionner, en outre, que les manifestations et sit-in préalablement autorisés continuent d'être organisés à Alger par les partis politiques et autres associations, comme l'attestent les milliers de rassemblements qui caractérisent les différentes joutes électorales que l'Algérie a connues ces dernières années.

Il y a également lieu de rappeler que la loi n° 12-06 sur les associations consolide le droit de création

des associations, en obligeant l'administration à se prononcer dans un délai précis sur la demande d'enregistrement, tout en énonçant que le silence de l'administration vaut agrément, et que le refus ne peut avoir d'autres motifs que le non-respect de la loi et il est susceptible de recours judiciaire.

La société civile est d'ailleurs un partenaire incontournable des pouvoirs publics, comme l'illustre le nombre d'associations qui dépasse les 110 000 organisations.

Par ailleurs, le Gouvernement algérien poursuivra ses réformes législatives afin de mettre la législation nationale en conformité avec la Constitution révisée. La poursuite des réformes législatives inclut:

- Un avant-projet de loi organique relatif aux associations : aura pour objet de consacrer la nouvelle disposition constitutionnelle (art 54), qui a hissé la loi relative aux associations au rang de loi organique, de consolider davantage la liberté d'association, à la lumière de l'expérience tirée de la mise en œuvre de la loi de 2012.
- Un avant-projet de loi relatif aux libertés de réunion et de manifestation pacifique : qui vise à adapter la législation actuelle à la nouvelle disposition ayant consacré la liberté de manifestation pacifique (art 49), à renforcer les garanties de leur exercice et à assurer le caractère pacifique inhérent à leur exercice.

⁷ Le commentaire concerne également la recommandation 196.

⁸ Le commentaire concerne également les recommandations 199 et 200.