



International Covenant on Civil and Political Rights

Distr.: General
5 December 2022

Original: English

Human Rights Committee

Report on follow-up to the concluding observations of the Human Rights Committee*

Addendum

Evaluation of the information on follow-up to the concluding observations on Algeria

Concluding observations (123rd session): [CCPR/C/DZA/CO/4](#), 20 July 2018

Follow-up paragraphs: 30, 38 and 46

Information received from State party: [CCPR/C/DZA/FCO/4](#), 25 June 2021

Information received from stakeholders: [Cairo Institute for Human Rights Studies](#), 18 July 2022; [Collectif des Familles de Disparu\(e\)s en Algérie](#), 20 September 2022

Committee's evaluation: 30 [E], 38 [C][D] and 46 [C][D]

Paragraph 30: Enforced disappearance

The State party should take all necessary action to (a) ensure that disappeared persons and their families have access to an effective remedy, including for those families who have declared – for purposes of being able to receive compensation – that their disappeared family member was dead; (b) ensure that thorough and independent investigations are launched into all allegations of enforced disappearance; (c) guarantee access to the truth for families of victims, such as by arranging for the exhumation of unmarked graves and mass graves and by having remains identified through scientific means, such as DNA testing; (d) guarantee the right to comprehensive reparation for all victims; (e) put in place guarantees to prevent enforced disappearance from reoccurring; and (f) implement the relevant Views adopted by the Committee under the Optional Protocol, provide any information that may be useful in resolving the cases pending before the Working Group on Enforced or Involuntary Disappearances and organize as promptly as possible the country visit referred to in the invitation extended in December 2013 by the State party to the Working Group. The State party should also take all necessary action to ratify the International Convention for the Protection of All Persons from Enforced Disappearance, which it signed in 2007.

* Adopted by the Committee at its 136th session (10 October–4 November 2022).



Summary of the information received from the State party

Algeria has already submitted information about enforced disappearances that occurred in the 1990s and compensation that victims received in its fourth periodic report¹ and its replies to the Committee's list of issues.² At the previous review, the delegation stressed that, under Algerian law, it is not lawful to pardon or commute the sentences of persons convicted of rape, torture, bombings in public places, premeditated murder or abduction, or to terminate their prosecution. According to the Charter for Peace and National Reconciliation, courts can try criminal cases and consider alleged human rights violations, except where the alleged perpetrators are law enforcement officials or persons engaged in counter-terrorism operations. Individuals therefore have the right of appeal if the acts were unrelated to public order, security or counter-terrorism operations. The Charter was adopted by Parliament and submitted to a referendum. It can be amended only following the same process.³

Summary of the information received from stakeholders

Collectif des Familles de Disparu(e)s en Algérie

Algeria has taken no new legislative measures to guarantee missing persons and their families access to an effective remedy. No progress has been made on implementing effective or independent investigations. The authorities remain totally in denial about the scourge; they urge families to declare their loved ones dead. They state that the problem had already been resolved, deny the existence of certain mass graves and refuse to conduct exhumations at known burial sites. No new system for reparations has been established. Reparation is possible only when a missing person is declared dead. Activists for the disappeared are intimidated and repressed and have been victims of blackmail by the authorities. Some relatives of the disappeared have been harassed by the police and threatened with imprisonment. Associations, including those of the families of the disappeared, are under significant pressure from the authorities.

Committee's evaluation

[E]

While taking note of the information provided, the Committee notes that the State party has repeated information and replies it had already submitted prior to the Committee's adoption of its concluding observations, and which thus formed the basis of its specific and detailed recommendation. It therefore finds that the information reflects the State party's rejection of its recommendation. The Committee strongly reiterates its recommendation and requests further information on allegations of intimidation of and threats against relatives of the disappeared and on activists advocating for the rights of the disappeared and their relatives.

Paragraph 38: Refugees, asylum-seekers and migrants

The State party should take the necessary steps to promptly adopt asylum legislation that is consistent with the Covenant and international standards and provides protection to asylum-seekers and refugees, in particular with regard to procedures for entering the country, requesting asylum and lodging appeals. It should also (a) refrain from conducting mass arrests of migrants and asylum-seekers; (b) refrain from subjecting migrants and asylum-seekers to arbitrary detention and ensure that they have access to counsel and to information about their rights; (c) refrain from conducting, under any circumstances whatsoever, collective expulsions of migrants and asylum-seekers, a fortiori in inhumane and degrading conditions; and (d) arrange for training programmes on the Covenant, international asylum and refugee standards and human rights standards to be organized for immigration and border control officials.

¹ CCPR/C/DZA/4.

² CCPR/C/DZA/Q/4/Add.1.

³ See CCPR/C/SR.3494 and CCPR/C/SR.3495.

Summary of the information received from the State party

A new law is being drafted to better address the situation of refugees and stateless persons.

(a) Members of the security services arrest foreigners in an irregular situation in accordance with legal provisions and procedures that safeguard their fundamental rights and protect them from unlawful expulsion or deportation.

(b) Under article 32 of Act No. 08-11 on the Conditions of Admission, Stay and Movement of Foreign Nationals in Algeria, foreign nationals subject to deportation may contact their diplomatic or consular representation and, if necessary, receive assistance from a lawyer and an interpreter. Since 2019, repatriations have been organized in cooperation with the International Organization for Migration (IOM) and the countries of origin. Migrants in an irregular situation (not to be confused with asylum-seekers) are not arbitrarily detained. In the event of repatriation, they are held in reception centres pending the completion of identification procedures and the issuance of the necessary laissez-passer by their consular offices. They are notified of the expulsion decision and may file an appeal with suspensive effect. The urgent applications judge may order the provisional suspension of the implementation of expulsion orders in the event of force majeure, particularly in cases involving minors and pregnant women.

(c) Algeria does not conduct collective expulsions of foreigners in an irregular situation. Their removal is carried out in consultation with the official representation of their country of origin and at the expense of Algeria.

(d) No information is provided.

Summary of the information received from stakeholders

Cairo Institute for Human Rights Studies

Algeria has not yet adopted asylum legislation. It does not recognize the refugee status granted by the Office of the United Nations High Commissioner for Refugees (UNHCR) and continues to forcibly return asylum-seekers. A crackdown on civic space has hindered the work of organizations that defend migrants' rights, including the Ligue algérienne de défense des droits de l'homme (Algerian League for the Defence of Human Rights).

(a) and (b) Migrants are subjected to violent raids, mass expulsions, deportations and arbitrary detention in inhuman and degrading conditions, based on racial profiling and without individual assessment or due process. Police apprehend black migrants without verifying their identity and status and detain them in "refoulement centres" or camps in unsanitary conditions. Children are often separated from their families and detained with adults. Pursuant to Act No. 11-08, illegal entry and exit continue to be criminalized and are punishable by up to five years' imprisonment. A total of 10,889 migrants in an irregular situation were arrested in 2021, compared with 5,825 in 2020. Individuals who are arrested, including asylum-seekers, are held in detention awaiting trial while simultaneously going through an expulsion procedure. They can be detained for up to 30 days. That limit is renewable indefinitely. Expulsion decisions are often implemented too quickly for migrants to have the opportunity to contact a lawyer or UNHCR to bring a suspensive appeal within the five days provided by law. Migrants are not informed of their rights or given access to interpretation.

(c) Migrants do not have an opportunity to appeal decisions concerning summary expulsions and are not given a reason for their arrest and deportation. They do not have access to a lawyer, a translator or the contacts details of the embassy of their country of origin. There have been reports of migrants being beaten and physically and sexually assaulted, including in detention. Some citizens of the Niger have been crammed into trucks or buses and handed over to the army of the Niger and others have been abandoned in the desert. In 2021, there were an estimated 25,396 summary expulsions to the Niger, compared with 22,631 in 2020.

(d) The Institute has no knowledge of any such training.

Committee's evaluation

[C]: (a), (b) and (c)

While taking note of the information on the drafting of asylum legislation, the Committee regrets the lack of progress since the adoption of the concluding observations. While taking note of the information provided, the Committee regrets the lack of specific information on measures taken to refrain from conducting mass arrests of migrants and asylum-seekers. It reiterates its recommendation and requests further information on steps taken to address the increased number of arrests of migrants and the reported racial profiling by the police. While taking note of the information on the safeguards stipulated in Act No. 08-11 and the State party's cooperation with IOM, the Committee regrets the lack of specific information on the measures taken since the adoption of the concluding observations to refrain from subjecting migrants and asylum-seekers to arbitrary detention and to ensure their access to counsel, and about their rights. It reiterates its recommendation and requests further information on the number of detained migrants, including asylum-seekers, the duration of such detention and steps taken to reduce both the number and the duration. The Committee regrets the lack of specific information on steps taken since the adoption of the concluding observations to refrain from conducting collective expulsions of migrants. It reiterates its recommendation and requests further detailed information on appeals procedures and migrants' access to lawyers and interpreters in cases of collective expulsions.

[D]: (d)

The Committee regrets the absence of information on the training available for immigration and border control officials and reiterates its recommendation.

Paragraph 46: Right to peaceful assembly**The State party should:**

(a) **Amend Act No. 91-19 of 2 December 1991 to remove all restrictions on peaceful demonstrations that are not absolutely necessary or proportionate in terms of the provisions of article 21 of the Covenant, and institute a simplified advance authorization arrangement for public demonstrations;**

(b) **Repeal the unpublished decree of 18 June 2001;**

(c) **Guarantee that demonstrators and meeting organizers are not prosecuted for exercising their right of assembly;**

(d) **Take effective measures to ensure that law enforcement personnel do not use excessive force during crowd dispersal operations.**

Summary of the information received from the State party

(a) The right of peaceful assembly and demonstration underpins the strengthened and consolidated democratic freedoms enshrined in the Constitution of 1 November 2020. A new provision, in article 52 of the Constitution, stipulates that the freedom of peaceful demonstration may be exercised pursuant to a simple declaration. Conditions and rules governing this freedom will be regulated by law, unlike under previous provisions, which subjected the organization of public events to a prior authorization procedure. The current law governing public meetings and demonstrations is being brought into line with the new constitutional provisions. The new legislative framework will be in line with international standards and the best practices of democratic countries. The measures taken include the introduction of a positive obligation on the State to facilitate the exercise of the right of peaceful assembly, the strengthening of the role of the judiciary and the definition of circumstances under which a peaceful demonstration may be prohibited. All restrictions imposed comply with article 21 of the Covenant, insofar as they are established by law and are necessary in a democratic society. The restriction placed on demonstrations in the *wilaya* (governorate) of Algiers was to maintain public order. Nevertheless, demonstrations and sit-ins were regularly held in Algiers without authorization. The demonstrations organized during the *Hirak* protests clearly illustrate the authorities' desire to return to the normal state

of affairs with regard to the organization of demonstrations. The Ministry of the Interior, Local Authorities and Territory Planning issued a reminder that peaceful demonstrations must be organized in accordance with the current law.

(b) No information is provided.

(c) Legal action may be taken in relation to the exercise of the right of assembly only in accordance with the relevant legal provisions. Penalties for violations are either a prison term of one to three months, a fine of 2,000 Algerian dinars or both.

(d) Law enforcement personnel take a flexible approach when dispersing crowds, in accordance with the law, using democratic crowd management techniques and conventional means.

Summary of the information received from stakeholders

Cairo Institute for Human Rights Studies

(a) Despite the assertion of Algeria that article 52 of the Constitution now protects the right of peaceful assembly with a simple declaration, the prior authorization regime under Act No. 91-19 still applies. Articles 97 to 100 of the Penal Code, which provide for imprisonment of between one month and one year and deprivation of civil rights for “unarmed gathering” or “incitement to unarmed gathering”, have been overwhelmingly used. The Institute is unaware of any ongoing legislative process to review Act No. 91-19. Throughout 2021, the police blocked access, including of journalists, to the *Hirak* demonstrations. Internet access on mobile phones was disrupted during demonstrations. Police made protesters pledge not to participate in unauthorized protests as a condition of release from police stations. On 9 May 2021, the Ministry of the Interior issued a statement reminding protesters of the prior authorization requirement under Act No. 91-19. The statement and the increased use of unlawful force and mass arrests led to the end of the *Hirak* protests.

(b) There is no official information of the content of this decree or any announcement about repealing it.

(c) Although *Hirak* demonstrations were allowed for the first few months, since June 2019, the courts have prosecuted protesters, activists and journalists for “weakening the morale of the army”, “inciting an unarmed gathering”, “undermining national unity” and causing “offence to public bodies”. Between February and June 2021, at least 7,000 demonstrators were arrested and around 700 of them were prosecuted. At least 38 journalists were arrested and/or prosecuted. Those proceedings often lacked due process and fair trial guarantees. Judge Saad Eddine Merzouk was dismissed and Deputy Prosecutor Ahmed Belhadi was issued with a warning for supporting *Hirak* protesters. On 3 May 2021, the Ministry of the Interior announced the suspension and prosecution of 230 firefighters who held a protest at which they demanded better working conditions. Ordinance No. 21-08, adopted on 8 June 2021, further expanded the broad definition of terrorism in article 87 bis of the Penal Code. It was approved on the basis of the new provision in article 34 of the Constitution that permits restrictions based on broad and subjective grounds, without safeguards. Between April and October 2021, at least 59 individuals were prosecuted on terrorism charges, mostly for exercising their right of peaceful assembly. In October 2021, ahead of planned commemorations, the authorities arrested at least 70 *Hirak* activists. A civil society organization, Youth Action Rally (Rassemblement Actions Jeunesse), was dissolved for holding “unauthorized meetings” and its members were prosecuted. In 2021 and 2022, the Ligue algérienne de défense des droits de l’homme was prevented from organizing meetings and its members were prosecuted. In 2022, two political parties – Rally for Culture and Democracy (Rassemblement pour la culture et la démocratie) and Democratic and Social Movement (Mouvement Démocratique et Social) – received formal notices from the Ministry of the Interior requiring them to stop organizing unauthorized meetings. Members of the Rally for Culture and Democracy have been imprisoned.

(d) The police carried out beatings and violent arrests of demonstrators, human rights defenders and journalists, including Ramzi Yettou on 19 April 2019, Kaddour Chouicha and his son on 12 March 2021, students in Bejaia on 16 March 2021 and the journalist Said

Boudour on 23 April 2021. The police used rubber bullets and tear gas against demonstrators protesting the holding of the June 2021 parliamentary elections in May and June 2021. No investigations were conducted into those events. Third parties committed acts of violence against *Hirak* protestors, journalists and activists, but effective investigations were not conducted.

Committee's evaluation

[C]: (a), (c) and (d)

While taking note of the information on the 2020 Constitution and the ongoing legislative process of amending relevant domestic legislation, the Committee regrets that Act No. 91-19 has not yet been amended. It reiterates its recommendation and requests further information on reports of: (a) the continued requirement for prior authorization under Act No. 91-19; and (b) undue obstruction by the police of peaceful assemblies, including the *Hirak* movement.

While taking note of the information provided, the Committee regrets the lack of specific information on steps taken to ensure that demonstrators and meeting organizers are not prosecuted for exercising their right of assembly. It reiterates its recommendation and requests further information on: (a) alleged arrests and prosecution of *Hirak* protestors, human rights defenders and journalists covering the movement, as well as meeting organizers, including members of Youth Action Rally, Rally for Culture and Democracy and Democratic and Social Movement; and (b) the compatibility with the Covenant of Ordinance No. 21-08.

While taking note of the information provided, the Committee regrets the lack of specific information on measures taken to prohibit the use by the police of excessive force in dispersing crowds. It reiterates its recommendation and requests further information on the aforementioned allegations of beatings and the use of bullets and tear gas against demonstrators, human rights defenders and journalists in the context of peaceful assemblies, and on any investigations conducted into these cases.

[D]: (b)

The Committee regrets the lack of information on the unpublished decree of 18 June 2001 and reiterates its recommendation.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

Next periodic report due: 2028 (country review in 2029, in accordance with the predictable review cycle).
