

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: 4th Cycle, 41st Session

ALGERIA

I. BACKGROUND INFORMATION

Algeria became a State party to the 1951 Convention relating to the Status of Refugees in 1963 and acceded to its 1967 Protocol in 1967 (hereinafter jointly referred to as the 1951 Convention). Algeria has also acceded to the 1954 Convention relating to the Status of Stateless Persons (the 1954 Convention) in 1964 but is not a party to the 1961 Convention on the Reduction of Statelessness (the 1961 Convention). Additionally, the State ratified the 1969 OAU Convention governing the specific aspects of refugee problems in Africa (the 1969 OUA Convention) in 1974. The only national legislative instrument for the protection of refugees is Decree No. 63-274 of 25 July 1963 (the 1963 Decree), which relates to the modalities for the application of the 1951 Refugee Convention¹. This decree established the “Bureau Algérien pour les Réfugiés et Apatrides” (BAPRA) within the Ministry of Foreign Affairs, to exercise, inter alia, legal and administrative protection of refugees and stateless persons, recognize the status of refugees to all persons within the mandate of UNHCR, or those who meet the definition of the 1951 Convention and to deliver the necessary documents that allow refugees and stateless persons to apply the provisions of international agreements relating to their protection. Until today, the BAPRA is not in a position to fully implement these responsibilities. The 1963 Decree also created an Appeals Commission, which has not yet been established.

In the absence of a comprehensive legislative framework and efficient administrative institutions for the protection of refugees, asylum-seekers and stateless persons, UNHCR assumes key responsibilities and carries out extensive protection activities. UNHCR exercises its mandate in two distinct operations. Firstly, for refugees and asylum-seekers of diverse origins in the urban context where UNHCR offers registration, provides documentation (refugee card and asylum-seeker certificates), assistance based on specific needs (e.g. shelter, basic domestic items, cash, individual case management), legal and psycho-social counselling, vocational training, ensures access to government funded medical care and education, and supports voluntary repatriation, resettlement and complementary pathways. Secondly, for refugees from Western Sahara living in the camps around Tindouf in the Southwest of the country who are recognized *prima facie* (i.e. without individual registration) by Algeria, UNHCR, other agencies and partner organisations provide humanitarian assistance and protection.

As of 31 January 2022, UNHCR has registered 10,946, persons of concern in urban areas, including 6,989 Syrian refugees (85%), 273 Yemenis, 218 Palestinians and 712 refugees from sub-Saharan African countries (mainly Mali, Cameroon, Central African Republic, Ivory Coast and Democratic Republic of the Congo). The latter are mainly males (70%) and include several unaccompanied or separated children on the move (around 5% of new asylum applicants are UASC)².

Syrians are the main population of concern. According to the Algerian Government, more than 40,000 Syrian nationals stay in Algeria. UNHCR commends the Algerian Government's

¹ National Legislative Bodies / National Authorities, Algérie : Décret no. 1963-274 du 1963 fixant les modalités d'application de la Convention de Genève du 28 juillet 1951 relative au statut des Réfugiés, 25 July 1963, available at : <http://www.refworld.org/docid/3ae6b52518.html>.

² Statistical data is based on UNHCR figures of January 2022

policy to welcome Syrian refugees without visa requirements until the end of 2014, and for having put in place a number of measures in their favour such as the regular extension of visas, access to health and education services and humanitarian aid by the Algerian Red Crescent. In the absence of legal residency, UNHCR registers those Syrian nationals that approach the Office. More than 7,000 Syrians are currently registered and have been issued asylum-seeker certificates by UNHCR. Since the introduction of visa requirements for Syrian nationals in early 2015, the number of new arrivals has significantly decreased. However, Syrian nationals remain the principal group seeking asylum, with a total of 593 new applications received by UNHCR in 2021, representing 26% of newly registered individuals.

Since 2018, there was an increasing number of asylum applications (over 4,000 per year), explained partially by the security situation in neighbouring countries. In 2020, the closure of borders due to the COVID-19 pandemic led to a decrease of the overall number of applications by almost 50%, but with the stabilization of the situation, asylum applications are gradually returning to pre-pandemic figures.

Several internal reforms followed the country's series of protests known as Hirak in 2019, that led to the resignation of the former President Abdelaziz Bouteflika in April 2019 and the 2020 referendum of 1 November 2020, for the revision of the Algerian Constitution that was promulgated by Presidential decree on the 30th of December 2020³. Finally, the COVID-19 pandemic has had a significant impact on all life aspects of refugees and asylum-seekers in Algeria, causing the loss of livelihoods and the deterioration of living standards and limiting access to essential services.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Linked to 3rd cycle UPR recommendation no. 129.178⁴ “Establish an assistance mechanism for women and girls who are victims of violence, particularly victims of sexual or gender-based violence, to facilitate the filing of complaints with the police and to provide them with legal, medical and psychological assistance, as well as adequate protection (Belgium).”

UNHCR welcomes the December 2020 revisions to the Algerian Constitution which strengthened several social rights as far as they could apply to refugees, asylum-seekers as well as stateless persons. For instance, as part of modified provisions, the State protects women against all forms of violence in all places and in all circumstances in the public space, in the professional sphere and in the private sphere. The law guarantees the access of victims to supportive structures, to mechanisms of taking responsibility, and to judicial assistance (Art. 40).

Linked to 3rd cycle UPR recommendation no. 129.124. “Establish an effective national policy for combatting trafficking in persons and establish appropriate mechanisms for the protection of its victims (Uganda);” and recommendation no. 129.125. “Continue its efforts to combat human trafficking through the establishment of an effective national policy to address it (Maldives).”

UNHCR notes with appreciation the establishment of an inter-ministerial anti-trafficking committee in 2016 to develop a national action plan to prevent and combat trafficking in

³ Décret présidentiel n° 20-442 du 15 Jourmada El Oula 1442 correspondant au 30 décembre 2020 relatif à la promulgation au Journal officiel de la République algérienne démocratique et populaire de la révision constitutionnelle, adoptée par référendum du 1er novembre 2020, available at : www.joradp.dz (premier-ministre.gov.dz)

⁴ Linked to additional 2nd cycle UPR recommendations: no. 129. 175, no. 129. 176, no. 129. 177, no. 129. 179, no. 129. 180, no. 129. 181, no. 129. 183, no. 129. 184, no. 129. 185, no. 129. 186, no. 129. 187, no. 129. 188, no. 129. 191 and no. 129. 195.

persons and to monitor and report on actions taken to combat trafficking.⁵ Despite the impact of COVID-19, the Government has taken some steps to address trafficking in persons, including the drafting the 2022-2024 national anti-trafficking action plan and the organization of training workshops for government officials.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 3rd cycle UPR recommendations

Issue 1: Lack of implementation of international refugee protection instruments through the adoption of a comprehensive asylum legislation

Linked to 3rd cycle UPR recommendation no 129.222 “Adopt national legislation implementing the Convention relating to the Status of Refugees and its 1967 Protocol, in order to institute a functioning system for the processing of refugees in accordance with international law and to grant protection to refugees determined and recognized as such by the Office of the United Nations High Commissioner for Refugees (Sweden);” recommendation no 29.223 “Adopt a comprehensive legal framework for refugees and asylum-seekers in conformity with relevant international standards (Belgium);” recommendation no 129.224 “Enact a law on asylum-seekers and refugees to ensure that migrants enjoy a safe legal status (Germany);” and recommendation no 129.225 “Adopt comprehensive national legislation that allows for compliance with and implementation of its international obligations concerning migrants, asylum-seekers, refugees and stateless persons (Mexico);”

Algeria’s domestic refugee legislation does not satisfy its international obligations related to the protection of refugees. The Committee on the Elimination of Racial Discrimination⁶ and the Human Rights Committee⁷ have recognized that the framework established by the 1963 Decree is neither comprehensive nor adequate and thus does not provide effective protection of the rights of asylum-seekers, refugees and stateless persons, particularly to the most vulnerable groups, and in particular unaccompanied and separated children.⁸

UNHCR welcomes the existing and ongoing efforts of Algeria in the process of enacting a law on asylum, which aims to incorporate into domestic law the provisions of the 1951 Convention, in particular it welcomes that such legislation would also apply to stateless persons. UNHCR stands ready to provide support and advice in the legislative process in order to ensure that such legislation is fully compatible with international norms and guidelines.

Recommendation:

UNHCR recommends that the Government of Algeria:

- a) Fully implement its international obligations under the 1951 Convention relating to the Status of Refugees, the 1969 OAU Convention governing the specific aspects of Refugee Problems in Africa, and the 1954 Convention relating to the Status of Stateless Persons into its domestic legal framework.

⁵ The anti-trafficking inter-ministerial committee was established in 2016 under the office of the Prime Minister, according to presidential decree 16-249 of 26 September 2016. The committee is composed of 20 representatives from several ministries, including also one representative from the National Council for Human Rights and one from the Algerian Red Crescent. More information on the committee’s structure and activities available on the website at the following link: <https://www.comitetrainpersonnes.dz/presentation/>.

⁶ Committee on the Elimination of Racial Discrimination, Concluding observations on the combined twentieth and twenty-first periodic reports of Algeria, CERD/C/DZA/CO/20-21, 21 December 2017, para. 21 and 21, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD/C/DZA/CO/20-21&Lang=En

⁷ Human Rights Committee, Concluding observations on the fourth periodic report of Algeria, CCPR/C/DZA/CO/4, 17 August 2018, para. 37, available at:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/DZA/CO/4&Lang=En

Issue 2: Lack of granting or recognizing refugee status

Linked to 3rd cycle UPR recommendation no 129.226 “Grant and recognize refugee status for all persons coming under the mandate of the United Nations High Commissioner for Refugees, in particular by giving them the national documents necessary to that effect (Portugal);”

While fully recognizing the Algerian Government’s achievements and improvements in the protection of refugees, the Government’s failure to grant status and issue national documentation to refugees recognized by UNHCR under the 1951 Convention and the 1969 OAU Convention, creates fundamental problems.

The failure to adhere to its international obligations means that these refugees face problems in accessing documentation, residency, social security, the labour market, adequate shelter and many other refugee and human rights. The Government’s official recognition of refugees recognized under UNHCR’s mandate would avoid these issues and would also officialise the current practices which allow for these refugees to access health services and education, as well as protection from arbitrary detention and refoulement.

In UNHCR’s view, recognizing (refugee) status for all refugees recognized by UNHCR is foreseen by the 1963 Decree and therefore possible based on existing legislation.

Recommendation:

UNHCR recommends that the Government of Algeria:

- a) Grant and recognize refugee status by issuing national documentation to all persons recognized under the mandate of UNHCR.

Issue 3: Need to strengthen mechanisms for the reduction of statelessness

Linked to 3rd cycle UPR recommendation no 129.23 “Ratify the Convention on the Reduction of Statelessness and incorporate its provisions into national law (Côte d’Ivoire);” **recommendation no 129.24** “Accede to the Convention on the Reduction of Statelessness and adopt its safeguards in the domestic legislation (Uganda);” **recommendation no 129.207** Guarantee the civil registration of children born out of marriage, as well as of refugee and stateless children (Paraguay);” **recommendation no 129.206** “Take necessary measures to ensure the registration and enrolment of children born out of wedlock (Turkey);” **recommendation no 129.208** “Take measures for the systematic registration of children born outside of marriage and of refugee children or migrants (Togo).”

The 1961 Convention on the Reduction of Statelessness (the 1961 Convention) establishes an international framework to ensure the right of every person to a nationality by establishing safeguards to prevent statelessness at birth and later in life. It is the only treaty on refugees and statelessness to which Algeria has not yet acceded.

UNHCR reiterates the recommendations of the Committee on the Rights of the Child to ensure that all children within the territory of the State party living in Algeria, including children born out of wedlock, refugee and stateless persons are registered at birth, and stands ready to support and advise the Algerian Government with regard to the compatibility of its national legislation with the standards contained in the 1961 Convention.

Recommendations:

UNHCR recommends that the Government of Algeria:

- a) Accede to the 1961 Convention on the Reduction of Statelessness and adopt its safeguards against statelessness into domestic legislation; and,

- b) Take measures to ensure that children born out of wedlock are registered in accordance with the law under their mother's name when their mother presents such a request.
- c)

Issue 4: Lack of appropriate mechanisms for the protection of survivors of sexual and gender-based violence and victims of trafficking and smuggling

Linked to 3rd cycle UPR recommendation no. 129.178 “Establish an assistance mechanism for women and girls who are victims of violence, particularly victims of sexual or gender-based violence, to facilitate the filing of complaints with the police and to provide them with legal, medical and psychological assistance, as well as adequate protection (Belgium)” and **recommendation no. 129.124** “Establish an effective national policy for combatting trafficking in persons and establish appropriate mechanisms for the protection of its victims (Uganda).”

Despite positive developments, Algeria does not have adequate mechanisms to prevent gender-based violence (GBV), nor does it have adequate services to offer protection to survivors. Similarly, Algeria's current mechanisms related to the protection of victims of trafficking and smuggling do not satisfy the two relevant Palermo Protocols, which foresee specific measures for their protection and assistance. To date, Algeria lacks appropriate shelters for survivors of violence, facilities to deal with urgent cases and referral mechanisms into UNHCR refugee status determination procedure for GVB survivors and victims of trafficking that might need international protection.

The Committee on the Protection of the Rights of All Migrant Workers⁹ expressed its concern about sub-Saharan migrants who have been victims of sexual exploitation, forced labour and begging, and domestic servitude and recommended “that all migrant workers, particularly migrant women employed as domestic workers, have access to effective mechanisms [...] for ensuring that perpetrators are punished and that victims obtain redress”. The Committee on the Elimination of Racial Discrimination, makes a series of recommendation to strengthen protection and assistance for victims of trafficking and continue training activities for law enforcement officials, including border immigration officials, on the identification of victims of trafficking in persons.

Recommendations:

UNHCR recommends that the Government of Algeria:

- a) Establish an effective national policy for combatting gender-based violence, trafficking in persons and smuggling; and
- b) Establish appropriate mechanisms for the protection of survivors of gender-based violence and victims of trafficking and smuggling who are in need of international protection.

UNHCR
March 2022

⁹ Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, concluding observations on the second periodic report of Algeria, CMW/C/DZA/CO/2, 25 May 2018, para. 34 (b), available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CMW/C/DZA/CO/2&Lang=En