

Answer

of the Federal Government

**to the Minor Interpellation tabled by the Members of the Bundestag Luise
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Greens parliamentary group
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Human rights situation in Algeria

Preliminary remarks of the questioners

On 3 February 2016, the Federal Government adopted the bill on the classification of the People's Republic of Algeria, the Kingdom of Morocco and the Tunisian Republic as safe countries of origin. The upshot of designating safe countries of origin is the limitation of procedural rights, legal protection possibilities and social and economic rights of those from these states seeking protection. The Alliance 90/The Greens parliamentary group continues to believe the instrument of "safe countries of origin" is wrong.

When designating safe countries of origin, the stipulations of the German Basic Law and Directive 2013/32/EU of the European Parliament and of the Council of 26 July 2013 on common procedures for granting and withdrawing international protection (Asylum Procedures Directive) must be adhered to. Under Article 16a (3) sentence 1 of the German Basic Law "states may be specified in which, on the basis of their laws, enforcement practices and general political conditions, it can be safely concluded that neither political persecution nor inhuman or degrading punishment or treatment exists". Under Annex 1 of the Directive, a state can only be designated as a safe country of origin, "where, on the basis of the legal situation, the application of the law within a democratic system and the general political circumstances, it can be shown that there is generally and consistently no persecution as defined in Article 9 of Directive 2011/95/EU, no torture or inhuman or degrading treatment or punishment and no threat by reason of indiscriminate violence in situations of international or internal armed conflict." Reports from numerous governmental and non-governmental institutions and organisations show that these conditions are not met in Algeria (see for instance Amnesty International, Opinion of 2 February 2016 on the Federal Government bill to classify Algeria, Morocco and Tunisia as safe countries of origin, p. 10).

Human rights situation of ethnic minorities

1. What is the Federal Government's assessment of the situation of the Kabyle and Tuareg in Algeria from a human rights perspective?

In the view of the Federal Government, there is no Algerian legislation which discriminates against people on the basis of which section of the population they belong to. The Kabyle have largely preserved their cultural identity, which the Constitution states is part of Algerian identity. There are Kabyle in key roles in the government as well as in revered positions in all spheres of society. Tensions between the government and Kabyle organisations have decreased significantly since 2004. Tamazight, the common Berber language, first became a "national language" in 2002, and was then also declared an official language upon the entry into force of the amended Constitution on 7 March 2016.

The nomadic Tuareg are a small group in terms of their numbers; the Federal Government has no information on ethnically motivated discrimination on the part of the Algerian government.

Human rights situation of religious minorities

Preliminary remarks of the Federal Government on religious minorities in Algeria

The Algerian Constitution declares Islam the state religion. Under Article 36 sentence 2 of the Algerian Constitution, the free practice of religion is guaranteed provided that this does not contravene any other laws, such as the prohibition of proselytism. Discrimination on the grounds of religion is prohibited.

98 to 99 % of the Algerian population are Maliki-Sunni Muslims. Algeria is also home to an estimated 20 000 to 100 000 Christians, around half of which are foreigners (12 000 to 15 000 Roman-Catholics, up to 30 000 Protestants, 1 000 to 1 500 Egyptian Copts, members of Evangelical groups). There are around 200 people of Jewish faith. There are no reliable figures for the number of Shiites. The group of the Ibadis, part of the Shia denomination, comprises 25 000 to 30 000 members.

2. What is the Federal Government's assessment of the situation of Christians in Algeria from a human rights perspective?
 - a) To what extent are hate crimes being committed against Christians on the grounds of their religion and what protection are the authorities providing against such crimes?

The Federal Government has no information regarding hate crimes directed at Christians. The Algerian Minister of Religious Affairs, Mohamed Aissa declared when he assumed office in 2014 that he was "minister of all religious affairs, not just Muslim ones." The Algerian authorities are instructed to investigate and prosecute all crimes, irrespective of the faith of the victim.

- b) To what extent are churches and other Christian establishments being destroyed, damaged and defaced, and to what extent are the authorities taking preventive or punitive measures against such actions?

In recent years, Christian cemeteries from the French colonial period have been vandalised on multiple occasions and iron crosses removed, the latter evidently

above all in order to exploit the material economically. In individual cases it was possible to arrest the suspected culprits. Churches, particularly at prominent locations, are protected by security forces.

- c) To what extent are Christians discriminated against in terms of access to public services and benefits?

In individual cases Christians may face discrimination in terms of access to public services and benefits. For instance, there is the known case of a severely disabled person who had converted to the Christian faith being denied social benefits. One reason for such types of discrimination is likely to be a lack of tolerance on the part of individual people.

- d) To what extent are Christians discriminated against in terms of access to work, education and housing and in other private-law relations, and what protection are the authorities providing against such discrimination?

In individual cases Christians may face discrimination, please also refer to the answer to question 2c. Parents of Christian children worry about stigmatisation and discrimination if their children no longer participate in Islamic religious education classes in spite of the constitutional prohibition of discrimination.

- e) To what extent are proselytism and converting to Christianity subject to criminal or other penalties?

Proselytism is prohibited under Algerian law and faces penalties of fines ranging from EUR 4 000 to 8 000 and prison terms of two to five years. Attempted proselytism is also a criminal offence. The Federal Government has no information on criminal prosecution of conversions.

3. What is the Federal Government's assessment of the situation of Jews in Algeria from a human rights perspective?

- a) To what extent are anti-Semitic crimes being committed against Jews and what protection are the authorities providing against such crimes?

The Federal Government has no information on anti-Semitic crimes. The relevant authorities have been ordered to intervene against all crimes.

- b) To what extent are Jewish establishments being destroyed, damaged and defaced and to what extent are the authorities taking preventive or punitive measures against such actions?
- c) To what extent are Jews discriminated against in terms of access to public services and benefits?

- d) To what extent are Jews discriminated against in terms of access to work, education and housing and in other private-law relations, and what protection are the authorities providing against such discrimination?

Questions 3b to 3d will be answered together.

The Federal Government is not aware of any discrimination against Jews in terms of access to work, education and housing and in other private-law relations.

- e) To what extent is converting to Judaism subject to criminal or other penalties?

Please refer to the answer to question 2e.

- 4. What is the Federal Government's assessment of the situation of members of other non-Islamic religious communities in Algeria from a human rights perspective?
 - a) To what extent are hate crimes targeting members of other religious communities being committed and what protection are the authorities providing against such crimes?
 - b) To what extent are members of other religious communities discriminated against in terms of their access to public services and benefits?
 - c) To what extent are members of other religious communities discriminated against in terms of access to work, education and housing and in other private-law relations, and what protection are the authorities providing against such discrimination?
 - d) To what extent is religious freedom ensured for members of other religious communities and to what extent are members of other religious communities subject to criminal or other prosecution on the grounds of their faith or the practice of their religion?
 - e) To what extent are proselytism and converting to another faith subject to criminal or other penalties?

Questions 4 to 4e will be answered together.

To the knowledge of the Federal Government, there are no other non-Islamic religious communities in Algeria.

- 5. What is the Federal Government's assessment of the situation of Mozabites in Algeria from a human rights perspective?

Social tensions exist between Mozabites and Arabs with mutual accusations of segregation, impeded integration and in the Mzab valley also of territorial harassment. In July 2015 these tensions escalated in the oasis town of Ghardaia (around 100 000 inhabitants). According to press reports violent clashes resulted in 25 deaths and left around 100 people wounded in the space of 24 hours. Prime Minister Abdelmalek Sellal and two ministers travelled to Ghardaia following the bloody clashes and pledged to do everything to avoid a repeat of the conflicts. The government also announced funding schemes for the region to improve the general living standard by bolstering the economy, thereby defusing the social potential for conflict.

6. To what extent is inter-religious or inter-denominational marriage legally possible in Algeria to the knowledge of the Federal Government, in particular between Muslims and non-Muslims?

Legally, the marriage of a Muslim man and a non-Muslim woman is not a problem provided the woman belongs to a monotheistic religion. It is not possible for a Muslim woman to marry a non-Muslim man. In practice, however, there is a considerable number of such marriages on the basis of readily available certificate from a Mosque attesting to the man's conversion to Islam. For other inter-religious or inter-denominational marriages the Federal Government is not aware of any legal barriers.

7. To the knowledge of the Federal Government, to what extent is blasphemous speech or blasphemy subject to criminal prosecution in Algeria, which actions constitute a criminal offence and in how many cases have there been legally effective convictions since 2012?

Article 144 of the Criminal Code sets forth penalties ranging from three months to five years in prison or a fine of between EUR 400 and 800 for blasphemy. Actions constituting a criminal offence are insulting the Prophet and God's messengers, denigrating the teachings and beliefs of Islam - in writing, drawings, statements or by other means. There are no public statistics on such criminal offences.

Human rights situation of women, young people and children

8. What is the Federal Government's assessment of the situation of women and girls in Algeria from a human rights perspective?
 - a) To what extent are women and girls protected against sexual violence?

Women and girls are protected through criminal law provisions such as the criminal offences of bodily harm, child abuse and the prohibition of rape (not in marriage). In addition to the criminal offence of the abduction of children, criminal provisions enacted in the last two years target the rape of children, incest and child prostitution. On the protection of girls please refer to the answer to question 9. Since January 2016 an Act on the Protection of Women – which non-governmental organisations had been demanding for a long time – has been in force, which in addition to domestic violence also sets forth penalties for sexual harassment of women in public. The penalties set forth are prison terms of multiple years. If the crime leads (even unintentionally) to the death of the woman, the penalty is life imprisonment. On International Women's Day 2015, President Abd al-Aziz Bouteflika called for more institutions to be created to protect women in Algeria.

- b) To what extent are women discriminated against in terms of access to public office in law or in practice?

To the knowledge of the Federal Government no discrimination is set forth in law. Under the new Article 31 of the revised Constitution of 7 March 2016, the state supports the promotion of women to positions of leadership in public institutions and private companies. The Algerian government is endeavouring to increase the percentage of women in higher academic roles as well, for instance as judges, doctors and teachers. According to official statistics, over 40% of

judges and lawyers are now female, amongst teachers they form the majority. For the National Assembly elections in May 2012, a statutory quota for women of 30% was introduced for representative political assemblies; this is also adhered to at the level of the administrative districts. The first government put in place following the presidential elections in 2014 included seven female ministers and ministers delegate, currently the figure is four.

- c) To what extent are women and girls discriminated against in terms of access to public services and benefits in law or in practice?

The Federal Government is not aware of any discrimination in law relating to services and benefits such as health care, pensions and other services and benefits.

- d) To what extent are women and girls discriminated against in terms of access to work, education and housing, and in other private-law relations in law or in practice and what protection are the authorities providing against such discrimination?

The Federal Government is not aware of any discrimination against women and girls in law in terms of access to education. According to non-governmental organisations working in the fields of women's rights and children's rights, gender equality has now been translated into practice nationwide in primary education. In secondary education and at universities (including natural science degree courses) there is a significantly higher proportion of women than men. According to non-governmental organisations, only around 20% of women work, however, and especially in less skilled occupations. The relative share of unemployed women is twice as high as that of unemployed men.

Under the new Article 54 of the Constitution, the state promotes the construction of housing, and in the scope of a legal voluntary commitment under sentence 2 undertakes efforts to facilitate the access of disadvantaged groups to housing. For government housing associations, one per cent of newly constructed homes or homes which become vacant are to be reserved for single mothers; the actual need is said to be higher than this, however. There are indications that single women are discriminated against in practice when looking for housing, above all in rural areas. Women and girls who have experienced discrimination can turn to the advisory National Human Rights Commission, which acts as a mediator between the relevant authorities.

- e) To the knowledge of the Federal Government, what unequal treatment of women and girls on the one hand and men and boys on the other is set forth in Algerian
- constitutional law,
 - contractual law,
 - family law,
 - inheritance law,
 - criminal law,
 - administrative law,
 - procedural law?

Article 29 of the Algerian Constitution prohibits all gender-based discrimination. Women are discriminated against in family law, however, for

instance in terms of parental custody including the right to determine the place of residence of the children and divorce ancillary matters. It is possible for women to file for divorce even against the will of the husband. In Algerian inheritance law, women are only entitled to half of what male heirs are. The Federal Government is not aware of any discriminatory provisions in criminal law, administrative law and procedural law. The Federal Government has no information on unequal treatment in contractual law.

9. To the knowledge of the Federal Government are children in Algeria adequately protected against violence and what is the Federal Government's assessment of this situation?

The National Human Rights Commission has criticised the existence of violence against children. Article 58, which has been expanded in the process of revising the Constitution, stipulates that in addition to family and society, the state also protects the rights of children ("The state shall take care of abandoned children. The law punishes violence against children.") The Act "on the protection of childhood" was already adopted in August 2015. This also sets forth the creation of a child protection authority, whose mandate includes protection against violence alongside the provision of suitable care.

10. How many cases of forced marriage is the Federal Government aware of since 2012 in Algeria and to what extent did these cases lead to criminal or other prosecution by the authorities?

The Federal Government is not aware of any statistics on forced marriages. Non-governmental organisations assume that these still play a significant role, above all in remote rural regions, whilst in Algiers and other major cities they have dropped sharply in relevance.

11. In how many cases have minors been married in Algeria since 2012 and in how many of these cases were both spouses minors?

The Federal Government is not aware of any statistical information on this. The minimum age for marrying is 16. Exceptions are possible under strict conditions with the approval of a judge.

12. To the knowledge of the Federal Government, in how many cases have Algerian nationals fallen victim to human trafficking (please break down into gender and purpose of the human trafficking – sexual exploitation, labour exploitation, forced begging, forced crime, organ theft etc.), and to what extent did these cases lead to criminal or other prosecution by the Algerian authorities?

The National Human Rights Commission reports increasing cases of child abductions, also in connection with economic or sexual exploitation. Between 2012 and 2013, 31 cases were reported to the police according to the Commission and it assumes a much higher figure including unreported cases. Non-governmental organisations say that human trafficking inside Algeria largely affects women and children from Sub-Saharan countries.

13. Since 2012, in how many cases have minors been forced to perform child labour in Algeria in contravention of international law, and in how many of these cases were the victims under 14 years old?

According to the International Labour Organization (ILO), child labour is heavily linked to the very large informal sector of the Algerian economy and often concerns casual agricultural labourers and street vendors, domestic workers and construction workers from a background of poverty. Labour Minister Mohamed El Ghazi stated in June 2015 that the number of working children in Algeria accounted for 0.5 % of the workers encountered during labour inspections. In 2010, the Algerian Association for the Promotion of Health put the numbers of working children at between 250 000 and 300 000. The revised Algerian Constitution prohibits employing children under the age of 16.

Human rights situation of lesbian, gay, bisexual, transsexual, transgender and intersexual people (LGBTTI)

14. What is the Federal Government's assessment of the human rights situation of LGBTTI people in Algeria, and why does it not address this situation in the explanatory memorandum on its bill on the categorisation of Algeria, Morocco and Tunisia as safe countries of origin?
- a) To the knowledge of the Federal Government, how many people have been convicted since 2012 for consensual same-sex acts between adults?

Homosexual acts come under the scope of Article 333 (2) and Article 338 of the Algerian Criminal Code. Statistical information on convictions is not generally published. It has to be assumed that the criminal code provisions are applied. According to non-governmental organisations' statements, it is not possible to officially register advocacy groups for lesbian, gay, bisexual, transsexual, transgender and intersexual (LGBTTI) people.

- b) How many attacks (intimidation, threats, violence) has the Federal Government become aware of since 2012 against LGBTTI people (please break down by year), and in how many cases did this result in criminal proceedings and convictions to the knowledge of the Federal Government (please break down by year)?

A non-governmental organisation working in Algeria has said that one can assume that there are isolated cases of violent attacks on LGBTTI people by sections of the population. LGBTTI people also face societal pressure.

- c) To what extent are members of the LGBTTI community discriminated against in terms of access to public office in law or in practice?
- d) To what extent are LGBTTI people discriminated against in terms of access to public services and benefits in law or in practice?
- e) To what extent do LGBTTI people actually have access to health care for acute treatment needs on the one hand and chronic suffering on the other, to what extent is the health care provided to members of this group free of charge and to what extent is doctor-patient confidentiality upheld when providing healthcare to members of this group?

- f) To what extent are members of the LGBTTI community discriminated against in terms of access to work, education and housing, and in other private-law relations in law or in practice, and what protection are the authorities providing against such discrimination?

Questions 14c to 14f shall be answered together.

LGBTTI people scarcely come out in public. Healthcare in Algeria is free of charge in state hospitals as a general principle. On the question of whether doctor-patient confidentiality is upheld and in relation to discrimination in terms of access to work, education and housing and in other private-law relations, the Federal Government has no information.

The Federal Government regularly addresses human rights issues, including LGBTTI rights, in the scope of its regular dialogue with Algerian public authorities and calls for improvements.

- g) Which media publications addressing LGBTTI issues are publically available in Algeria and to what extent is the Federal Government aware of measures or laws suited to stopping or designed to stop such media being produced or sold?

Since November 2014 there has been an Algerian online magazine which can be accessed free of charge and is published several times a year called “El Shad” (“Queer”), which aims to keep people in the Maghreb informed on LGBTTI- issues. The women’s and fashion magazine “Dzeriet” has also repeatedly featured LGBTTI topics. The Federal Government has no information on preventive measures.

Human rights situation of other social groups

15. What is the Federal Government’s assessment of the situation of homeless people in Algeria and in particular of homeless minors from a human rights perspective?
- a) To what extent are hate crimes targeting this specific group being committed against the homeless and what protection are the authorities providing against such crimes?
- b) To what extent are the homeless discriminated against in terms of access to public services and benefits in law or in practice?
- c) To what extent are the homeless discriminated against in terms of access to work, education and other private-law relations in law or in practice, and what protection are the authorities providing against such discrimination?

Questions 15 to 15c will be answered together.

The extensive government housing construction programme is the most important measure by the Algerian government in the eyes of the population and aims to eliminate the current shortage of housing by 2019. The Federal Government is not aware of any figures published on crimes against the homeless. To start work a proof of residence certificate is required, which the homeless do not usually have. In some cases there are government-funded organisations, such as the Algerian Red Crescent, which take care of homeless people. The state’s duty of care ends for homeless minors once they reach their 16th birthday.

16. What is the Federal Government's assessment of the situation of people with drug addictions in Algeria from a human rights perspective and to what extent do these people face criminal or regulatory penalties and measures on the grounds of or in connection with their illness?

Drug addiction is a major problem that the Algerian government has been trying to combat for years with an overarching approach comprising punitive measures, treatment and prevention. Drug addicts face penal and regulatory measures. The government is tackling the issue at cross-ministerial and cross-authority level, with a dedicated "National Office to Combat Drug Addiction" to coordinate the work. Awareness-raising and educational campaigns take place regularly in the different local communities, and in many schools, too. There are treatment clinics for drug addicts throughout the country. These use a range of internationally tried-and-tested approaches such as substitution therapies and counsellors.

Human rights situation of the politically active

17. What cases is the Federal Government aware of in which people in Algeria faced police or judicial measures as a result of their political work, and what is the Federal Government's assessment of this situation?

Political activity is generally possible in Algeria without government restrictions. Activities directed against the dignity and sovereignty of the state face restrictions from government authorities and may be subject to criminal penalties.

18. To the knowledge of the Federal Government, to what extent is freedom of opinion, of the press and information ensured in Algeria, what measures is the Federal Government aware of which restrict the freedom of opinion, the press and information and what is its assessment of this situation?

Freedom of the press is enshrined in the Algerian Constitution, but there continue to be restrictions to freedom of opinion, assembly and association. Most newspapers are reliant on government printing presses and adverts from the government advertising and publishing company. Since October 2014 journalists have faced heightened government pressure directed at critical voices in the press. An Act on Audio-visual Media, which opens up this sector to private operators, too, entered into force in 2014. Although the law fundamentally constitutes progress, it does, however, contain various restrictions and opportunities for government interference and as such falls short of the full liberalisation of the media sector hoped for. Online, a web and blogging scene has slowly started to develop in recent years (independent news agencies such as tsa-algérie.com; Facebook and Twitter profiles of individual journalists). No systematic censorship or restriction is taking place on the Internet. In 2009, the adoption of the Act against Cybercrime created the possibility of surveillance of electronic communication. The 2016 revision of the Constitution introduced a new article enshrining the freedom of the press: "The freedom of the written and audio-visual press and of information networks shall be guaranteed. It shall not be restricted by any form of pre-censorship. This freedom must not be abused to infringe the dignity, freedoms and rights of

others. The dissemination of information, ideas, images and opinions in complete freedom shall be guaranteed within the framework of the law and the respect of the religious, moral and cultural constants and values of the Nation.”

19. To the knowledge of the Federal Government, since 2012 in how many cases have statements and actions which in its estimation constituted the exercise of freedom of opinion, the press or information under international law resulted in criminal proceedings and convictions in Algeria (please break down by year)?

There are no public figures on criminal proceedings or convictions. Proceedings have been initiated repeatedly against bloggers, operators of critical webpages and web cartoonists, for instance, invoking the existing criminal press laws (*inter alia* broadly interpreted criminal offences of insult and slander; criminal offence of “incitement to terrorism”), but in many cases were then dropped.

20. In the view of the Federal Government, to what extent was turning off the station Al-Atlas TV on 12 March 2014 (Amnesty Opinion, p. 10) reconcilable with the freedom of opinion, the press and information enshrined in international law?

The Federal Government is not aware of the exact background to the station being turned off. According to the government, Al Atlas TV was not in possession of a particular license required for broadcasting. The Federal Government advocates and champions full freedom of opinion, the press and information.

21. To what extent does the conviction of Youcef Ouled Dada (Amnesty Opinion, p. 10) infringe his human rights in the opinion of the Federal Government?

According to press reports, on 10 June 2014 Youcef Ouled Dada was sentenced to two years in prison for “harming national interests” and “defamation of a public institution”, and to the payment of a fine for posting a video on the web showing the Algerian police during violent clashes in the province of Ghardaia at the scene of a theft in a shop. The appellate court confirmed the ruling. Examining the facts of the case one has to assume above all an infringement of the freedom of opinion.

22. To what extent is freedom of association ensured to the knowledge of the Federal Government?

The triggering of the freedom of association guaranteed in the Constitution is governed by the Association Act, which entered into force in January 2012 and makes associations - not just political ones - contingent on legalisation. Civil society organisations complain of legal and bureaucratic restrictions as a result of the act which render their work more difficult and subject it to state intervention and control. Even after filing an application and providing the requisite documents, groups are said to often be left in a status of illegality with no response to or acknowledgement of their application. External support of what is generally viewed as the structurally weak civil society in Algeria is subject to strict control due to the fact that project funds from international donors to associations are subject to official approval.

23. Is the Federal Government aware of the work of non-governmental organisations in Algeria being hampered through laws or government measures?

Please refer to the answer to question 22.

24. To the knowledge of the Federal Government, in how many cases were employees of non-governmental organisations or civil society initiatives in Algeria sanctioned for failing to register the organisation?

The Federal Government has no information on sanctions against employees of non-governmental organisations for failure to register organisations.

25. Is the Federal Government aware of the work of independent trade unions in Algeria being hampered through laws or government measures?

In 1990 the legal foundation was created for the approval of independent trade unions. Under this law, 30 days after submission of the requisite documents, a certificate legalising the trade union is to be issued. In practice, applications for official recognition have gone unanswered for periods of years and the trade unions left in a status of illegality as a result. In addition to this, trade union representatives have criticised the curtailment of the freedom of assembly.

26. How many attacks (intimidation, threats, violence) against journalists has the Federal Government become aware of in Algeria since 2012 (please break down by year), and in how many cases did they lead to criminal proceedings and convictions to the knowledge of the Federal Government (please list by year in each case)?
27. How many attacks (intimidation, threats, violence) against opposition politicians has the Federal Government become aware of in Algeria since 2012 (please break down by year), and in how many cases did they lead to criminal proceedings and convictions to the knowledge of the Federal Government (please list by year in each case)?
28. How many attacks (intimidation, threats, violence) against human rights activists has the Federal Government become aware of in Algeria since 2012 (please break down by year), and in how many cases did they lead to criminal proceedings and convictions to the knowledge of the Federal Government (please list by year in each case)?
29. How many attacks (intimidation, threats, violence) against lawyers has the Federal Government become aware of in Algeria since 2012 (please break down by year), and in how many cases did they lead to criminal proceedings and convictions to the knowledge of the Federal Government (please list by year in each case)?

30. How many attacks (intimidation, threats, violence) against trade unionists has the Federal Government become aware of in Algeria since 2012 (please break down by year), and in how many cases did they lead to criminal proceedings and convictions to the knowledge of the Federal Government (please list by year in each case)?

Questions 26 to 30 will be answered together.

The Federal Government has no systematic records of attacks against journalists, opposition politicians, human rights activists, lawyers and trade unions or related criminal proceedings available to it. According to accounts by non-governmental organisations and representatives of civil society, intimidation of journalists, opposition politicians, human rights activists, opposition lawyers and trade unionists does take place.

31. In the view of the Federal Government, to what extent is freedom of assembly ensured in Algeria and how many peaceful public demonstrations have not been authorised or been broken up since 2012 to the knowledge of the Federal Government?

According to the new Article 41 of the Algerian Constitution, “Algerian citizens shall be guaranteed freedom of peaceful assembly within the framework of the law which shall govern the modalities of the exercise of such” Freedom of assembly continues to be restricted, however, de facto and de iure. In Algiers, even after the lifting of the state of emergency in February there continues to be a general ban on demonstrations based on a decree issued in 2001. A right to spontaneous demonstrations is not recognised in Algeria. The Federal Government is not aware of any statistical records on public gatherings which were denied authorisation or which were disbanded.

32. To the knowledge of the Federal Government, since 2012 in how many cases in Algeria have there been criminal proceedings and convictions as a result of participation in peaceful public gatherings (please list by year)?

The Federal Government is not aware of any statistics on criminal proceedings and convictions as a result of participation in peaceful public gatherings.

33. To what extent does the conviction of Mohand Kadi and Moez Bennecir for participation in an unarmed gathering disrupting public order (Amnesty Opinion, p. 10) infringe their human rights in the view of the Federal Government?

According to press reports, on the fringes of a demonstration by the opposition movement Barakat in Algiers on 16 April 2014, the Algerian Mohand Kadi and the Tunisian Moez Bennecir were taken into police custody. Both are said to have been given a suspended six-month prison sentence in May 2014 for the offence of “unarmed unlawful assembly to disturb the public peace”. Both are reported to have denied participating in what under Algerian law was the illegal demonstration. Kadi’s conviction is reported to have been upheld by the appellate court. The Federal Government is not in a position to assess the key criminal question of whether Kadi and Bennecir took part in the demonstration.

Further aspects of the human rights situation in Algeria

34. To the knowledge of the Federal Government, in how many cases has the death penalty been handed down in Algeria since 2012?

According to Amnesty International, the death penalty was handed down in 62 cases in 2015, in 2014 in at least 16 cases, in 2013 in at least 40 and in 2012 in at least 153 cases. President Abdal-Aziz Bouteflika has availed himself of his right to issue a pardon on multiple occasions and converted death penalties into life sentences. The death penalty was last enforced in Algeria in September 1993. Since then a de-facto moratorium, which has been reaffirmed several times, has been in place. Multiple debates inside Algeria show that endeavours by the government to officially abolish the death penalty would face strong protests from Islamic-conservative circles.

35. To the knowledge of the Federal Government, to what extent is unacceptable political influence being exerted on the work of the courts and criminal prosecution authorities in Algeria?

The revised Constitution explicitly sets forth the separation of powers and the independence of the justice system. In practice, the independence of courts and judges is not always guaranteed.

36. To what extent are the rights of defendants ensured in criminal proceedings in Algeria?

Amendments to the Constitution, which entered into force in March 2016, bolster the rights of defendants, also with regard to representation by a lawyer. It remains to be seen what the practical impacts of these legal changes are.

37. To the knowledge of the Federal Government, is the Algerian government able to provide adequate protection against armed groups throughout the country and in particular in Algiers, Oran, Constantine, Tamanrasset and the south of the country?

According to its own statements, the government is able to permanently ensure the internal security of what is the largest state in Africa in terms of area on more than 80% of its territory. This includes in particular the major cities of Algiers, Oran and Constantine and Tamanrasset in the south of the country. The police, military and gendarmerie provide protection against attacks by armed, terrorist groups. Attacks are directed for the very most part against the security forces. The Kabylie region in the north-east of the country is a retreat and operational base for many terrorist groups and as such the main area the Algerian security forces are active in in the fight against terrorism.

38. Is “illegally” leaving the country still liable to criminal prosecution in Algeria to the knowledge of the Federal Government, and to what extent is this reconcilable in the view of the Federal Republic of Germany with Article 13 (2) of the Universal Declaration on Human Rights and other international law regulations?

Illegally leaving the country continues to be subject to criminal prosecution on the basis of a law adopted in 2009. In practice, according to statements by lawyers, there are occasionally legal proceedings, which often result in suspended sentences. A trial that was followed by the media ended in August 2012 with a verdict of not guilty. Pursuant to Article 29 (2) of the Universal Declaration of Human Rights,

the right to leave the country under Article 13 (2) can be made subject to restrictions provided that these meet certain criteria and in particular are proportionate.

39. Does the Federal Government share the view of the non-governmental organisation Freedom House, that the state of Algeria is “not free” (<https://freedom-house.org/country/algeria>), and what conclusions, including in terms of action to be taken, does it draw from this?

According to its Constitution, Algeria is a “democratic people’s republic”, with the principles of state of democratic governance and social justice. The president assumes a strong role and is elected through direct elections every five years. Since the end of the civil war, Algeria has been undergoing a democratic transition. Following a constitutional amendment in December 2008 and the “Arab Spring” in 2011 in Tunisia, President Abd al-Aziz Bouteflika lifted the state of emergency in February 2011. The latest constitutional amendment strengthened a host of civil rights. With its provision of an impressive basic social security with free healthcare, education, subsidisation of food staples, electricity, fuel and a very extensive government housing construction programme, Algeria has made considerable progress. This notwithstanding, shortcomings remain in particular in the freedom of assembly and freedom of association.

In its dealings with Algeria, the Federal Government pursues a political dialogue with state representatives and representatives of civil society in different formats. Here, human rights and civil rights issues play an important role. In the scope of the EU, too, in the framework of the EU human rights strategy in place since October 2012 a regular dialogue takes place.

On the explanatory memorandum on the bill of the Federal Government

40. On what sources does the Federal Government base its view that government action in France can only be verified in exceptional cases (Explanatory memorandum on the bill in Bundestag printed paper 18/8039, p. 7) given the fact that the Conseil d’État already agreed on 19 February 1875 with the petitions by the “commissaire du gouvernement” (government commissioner) that it was not sufficient for a decision taken by the government or one of its representatives to be discussed in the Council of Ministers or based on a political interest to justify the exceptional nature, which then placed it above and beyond any verification and oversight by the courts (cf. CE, 19 February 1875, Prince Napoléon, Rec. 155, concl. David, in: Long et. al., *Les grands arrêts de la jurisprudence administrative*, 16e édition 2007, p. 16, 17), and the theory of an “acte de gouvernement” (government act) exempt from court verification and oversight - also as a result of the guarantee of legal recourse set forth in the European Convention on Human Rights - now is only relevant to relationships between constitutional bodies and certain aspects of the external relations of the French Republic?

The explanatory memorandum on the bill in Bundestag printed paper 18/8039 of 6 April 2016 states on p. 10 that the Algerian legal system is formally largely based on the French model. This does not constitute an assessment of French legal practice.

