



Far from Prying Eyes, A Trap for Migrants and Refugees

Militarisation of the Border between Algeria and Morocco

December 2015



EuroMed Rights – Euro-Mediterranean Human Rights Network
EuroMed Droits – Réseau euro-méditerranéen des droits humains
الأورو-متوسطية للحقوق- الشبكة الأوروبية المتوسطية لحقوق الإنسان

Photo ; Algerian side of the border, 2015

Since the beginning of 2015, the border between Algeria and Morocco has been increasingly militarised: elevation of a barbed wire fence on the Moroccan side and construction of a deep ditch on the Algerian side. Migrants and refugees' fundamental rights are violated on an ongoing basis, out of sight and with complete impunity, in violation of multiple international and national obligations of Morocco and Algeria, along with a restriction on the freedom to leave any country, in particular for migrants and refugees.

Unfortunately this situation is not an exception. As in other locations, such as the French-British border, or around Ceuta and Melilla, forced transit zones and no-go zones with no reception structures encourage violence towards migrants and refugees.

By sealing their common border, Morocco and Algeria push those who wish to migrate to even more remote places. Like a domino effect, abuse against migrants and refugees, blocked in the North of Morocco and on the Algeria-Morocco border, partly results from the militarisation of the border in Ceuta and Melilla, as well as from what the Spanish Minister of Interior Diaz deemed a "brilliant collaboration" between the Moroccan and Spanish authorities, marked with much unpunished violence².

These policies echo European policies: on 26 March 2015, Spain adopted an Organic Law on Protecting Public Security which authorises "on-the-spot" expulsions from Ceuta and Melilla, although such practices are illegal. In other words, migrants who have crossed the border are immediately pushed back towards Moroccan territory, without any procedural safeguard and in violation of the right to seek asylum and of the principle of non-refoulement.

This report is intended to build on EuroMed Rights 2013 report. The recommendations made and the description of the legal frameworks given in that report still apply and should be added to the information presented here, which was collected between January and September 2015 in Morocco and in Algeria using a qualitative process (participant observations and interviews with migrants and refugees, as well as civil society stakeholders).

In particular:

- Violation of the right to leave any country, including one's own;
- Absence of complaint and disciplinary mechanism in proven cases of violence;
- Absence of procedural safeguard in case of interrogation concerning unlawful entrance or residence;
- Arbitrary deprivation of liberty;
- Failure to register children at birth;
- Absence of protection (prevention and redress) against inhuman and degrading treatment;
- Illegal expulsions and push-backs of migrants and refugees, on both sides of the border, even though it is closed.

¹ In December 2013, EuroMed Rights published a report on the situation of migrants and refugees on the Algeria-Morocco border, « Maghnia: Crossing the Uncrossable Border », in support of two field missions carried out in collaboration with its member associations and local partners. EuroMed Rights here proposes an update on the situation at a border which has been closed since 1994 without any official crossing point, and which is increasingly militarised and "uncrossable", where violations of human rights continue with complete impunity. <http://euromedrights.org/publication/maghnia-crossing-the-uncrossable-border/>

² GADEM et al. (2015) Ceuta et Melilla : centres de tri à ciel ouvert aux portes de l'Afrique ? http://www.gadem-asso.org/IMG/pdf/Rapport_conjoint_Ceuta_et_Melilla_centres_de_tri_a_ciel_ouvert_aux_portes_de_l_Afrique_2015.pdf

1. Militarisation of the border and violation of rights

Escalation of the barricades

Over a year and a half ago, Morocco began the construction of a wire mesh fence, 450 km long and 2.5 m high, along the border with Algeria. This project was revealed by the press in December 2013³, but only acknowledged by the head of government in May 2015⁴.

According to media sources, the contract was obtained by a building company belonging to a member of parliament in the Oujda region⁵. It is alleged that the work began on 6 January 2014, with a first stretch of 30 km from Saidia to the province of Jerada and then a second stretch of 70 km which started on 15 September 2014.

The Algerian authorities did not take long to respond: on 9 January 2014, a ditch was dug alongside the barrier in the region of Bin Lajraf. The work has continued in parallel since, along with the construction of security checkpoints on both sides of the border.

This process has done little to stop cross-border movements, but it has made them more difficult, significantly complicating the daily life of Algerian and Moroccan citizens in border towns and cities. Moreover, in response to demonstrations held on either side of the border asking for the removal/easing of the circulation conditions, gates were added by the Moroccan authorities at certain points along the fence. These gates are kept locked. From our observations, it seems it is only possible to pass through if one pays the guards.

According to statements by authorities in both countries, the barrier and ditch were built “to combat the illegal circulation of medications and contraband, in particular fuel”. If that is the case, we can only wonder why this measure was only taken recently, even though the border has officially been closed since 1994, following the Marrakech attacks.

We are thus witnessing militarisation of a space which is not, however, a military zone. In the past the few military barracks were located around Port Saïd in Algeria, and on the other side of the border at the same level, in Morocco. There are now many all along the border, in particular close to residential areas.

Risk-taking, endangerment, extortion

Many migrants and refugees cross the border in extremely dangerous conditions, and many lose their lives doing so. The AMDH (Moroccan Association of Human Rights) in Nador reports for example the case of a Zambian migrant “found in a very serious condition on 15/01/14, after walking for five days, suffering thirst and hunger”⁶.

The many risks migrants and refugees are taking, makes them even more vulnerable to exploitation: the “chairmans” (i.e. leaders within the migrant communities) are increasingly taking advantage of their monopoly situation, demanding sums that have doubled or even tripled since the last mission in 2012-2013 (2013 figures: 50 Euros for men and 100, even 150 Euros for women). Algerians are required to pay the sum of 3,000 Algerian dinars (approximately 26 Euros) to cross the border through the gates.

The associations have also collected many statements bearing witness to extortion of goods and money by the smugglers, but also by the border guards and chairmans. As there is no safe and legal way to cross the border, this monopoly has very often been accompanied by violence, as shown by the murder of a young Sub-Saharan in Tlemcen in October 2014. The young man was burned alive by three “chairmans” after he attempted to set up his own crossing business outside the existing circuits⁷.

These processes of exploiting migrants in precarious situations are occurring throughout the border region: for example, the undeclared recruitment of many migrants (mainly men) of Sub-Saharan origin transiting through Algeria, who are trying to earn something to exchange for their crossing into Morocco. According to some observers in Algeria, many accidents, some fatal, occur on building sites in Oran and in Maghnia. Racist violence is also on the rise, sometimes with fatal consequences for the victims.

³ « Morocco wants to erect a wall of barbed wire on the Algerian border », Afrik.com, 2 December 2013 <http://www.afrik.com/le-maroc-veut-eriger-une-muraille-de-barbeles-a-la-frontiere-algerienne>

⁴ «Morocco builds its own “Berlin Wall” at the Algerian border », Bladi.net, 30 May 2015, <http://www.bladi.net/maroc-mur-berlin-frontiere-algerie,42137.html>

⁵ <http://m.alyaoum24.com/180161.html>

⁶ AMDH (2015) Report on the situation of Sub-Saharan migrants in Nador, <http://ffm-online.org/wp-content/uploads/2015/06/Rapport-migrant-Nador.pdf>

⁷ «Capital punishment for three Sub-Saharans - They were accused of the murder of a migrant in Tlemcen », El Watan, 19 May 2015 <http://www.djazairss.com/fr/elwatan/495087>

Lack of transparency and impunity

Since July 2014, the number of legal proceedings brought against certain civil society organisations has risen in Morocco⁸. On 11 June 2015, two Amnesty International researchers were arrested and expelled from the country while doing research on migration in Morocco⁹. In October 2015, the activities of Human Rights Watch were suspended¹⁰. Likewise, many foreign journalists were given no response after asking to report on the migration situation in Morocco, or were refused entry to the country with their journalism working equipment.

On 2 June 2015, a member of parliament, Mr Abdelaziz Aftati, was suspended from his position within the party PJD (Justice and Development Party). His visit in the border area was considered too close to the Algerian border and put forward as a ground for his suspension¹¹.

Civil society's work documenting and monitoring arrests has been made difficult as the destinations of coaches is still unknown at the time of "removal", and the persons arrested are often dispersed to different places during a single operation.

In Algeria, and in particular in the West, close to the border, the absence of civil society has not improved since 2013. For activists based in other cities in the West of Algeria such as Oran, it is becoming increasingly difficult to approach the zone to take photographs and observe the progress of construction, since the human and material surveillance resources have been reinforced. Those who attempt to inform themselves about practices on the border or to take photographs are kept under surveillance, journalists or members of civil society organisations alike.

Racist violence is rarely documented and it is extremely difficult for victims to complain. On 1st October 2015, a young woman from Cameroon was the victim of repeated rape by at least seven individuals in the greater Oran area (Coca district); as an irregular migrant, she was refused admission to several hospitals and clinics. She went to the police station the following day to complain, accompanied by her partner, without any document attesting the sexual assault she had suffered. Her claim was rejected on the grounds that she had no document proving that she was present in the country regularly. It was only after the independent trade union, SNAPAP, became involved and this case of violation of the rights of victims of violence was covered in the media, that her accusation of gang rape was put on record. According to SNAPAP, "the automatic response of systematically refusing to allow Sub-Saharan migrants to lodge complaints, due to their vulnerable administrative status, has encouraged crime and murders of this population¹²."

⁸ « A year of hurdles for Morocco's civil society », EuroMed Rights, 15 July 2015, <http://euromedrights.org/publication/a-year-of-hurdles-for-moroccos-civil-society/>

⁹ « Amnesty International staff members expelled from Morocco », Amnesty International, 12 June 2015, <https://www.amnesty.org/en/latest/news/2015/06/amnesty-international-staff-members-expelled-from-morocco/>

¹⁰ « The Moroccan Association of Human Rights expresses its solidarity with Human Rights Watch », AMDH, 7 October 2015, http://www.amdh.org.ma/fr/communication/hrw_amdh

¹¹ « Abdelaziz Aftati suspended from his position within the PJD », Tel Quel, 2 June 2015 http://telquel.ma/2015/06/02/aftati-suspendu-ses-fonctions-au-sein-du-pjd_1449881

¹² « Charges concerning rape of a Sub-Saharan foreigner in Oran », SNAPAP, 5 October 2015, <http://www.jcalgerie.be/?p=11504>

2. Border areas, a real trap for migrants

Changes in Moroccan migration policy: an iron fist in a velvet glove?

Moroccan migration policy began to change slowly after the speech by King Mohamed VI in September 2013 calling for the introduction of a “humanist migration policy”.

Generally, this policy initiated a change in social climate towards migrants and refugees from Sub-Saharan countries. Their presence is now better tolerated by the authorities in large cities. Some have also managed to be able to work and access housing. Finally, in October 2015, the situation of leaders and members of migrants’ associations, and the organisations themselves, was regularised, in accordance with the recommendations of civil society and the National Council of Human Rights¹³.

On 11 November 2013, an operation to regularise foreigners who were “irregularly” residing in Morocco was officially launched, the first of its kind in the region. Civil society was involved in this process, via information meetings but also through the creation of the national monitoring and appeals committee. Officially, the Moroccan State is again responsible for processing asylum claims, a responsibility previously within the remit of the United Nations High Commissioner for Refugees (UNHCR)¹⁴. However, at the time this report was written, the Algerian Office for Refugees and Stateless Persons (Bureau des Réfugiés et Apatrides) had not yet resumed its duties, which explains why many refugees applied for a regularisation procedure in 2014 (cf. below).

The examination of applications started on 2nd January 2014, allowing almost 18,000 people to obtain a residence permit (official figures from February 2015). However, the process is not exempt from criticism, both concerning the examination of the substance of applications, and shortcomings in the procedure, i.e arbitrary decisions and lack of information. Finally, the long delay in the creation of the national monitoring and appeals committee made it impossible to examine appeals against rejected applications within reasonable periods, leaving migrants in an irregular situation and at risk of being arrested or even expelled from the country, as happened in March and August 2015 (cf. infra)¹⁵.

In October 2015, after several months of uncertainty, the appeals committee was finally able to start work, and called for an easing of the regularisation criteria¹⁶. The Committee has predicted it would regularise 92% of the applications submitted. It should be noted that a significant proportion of the people regularised should have been seen their case examined under asylum law and not under the regularisation procedure (which is based in particular on proof of employment): 18.4% of the people regularised are for example refugees from Syria.

This “grace period” in Morocco however remains very ambivalent.



Border between Algeria and Morocco, 2015 :
the ditch and the wire fence

¹³ The National Appeals Committee adopts new measures enabling the regularisation of 92% of foreigners who have submitted regularisation applications, National Human Rights Council, 26 October 2015, <http://cndh.ma/fr/communiqués/migration-la-commission-nationale-de-recours-adopte-de-nouvelles-mesures-permettant-de>

¹⁴ GADEM & FIDH (2015) Morocco. Raids and regularisations, assessment of an indecisive migration policy http://www.gadem-asso.org/IMG/pdf/MarocMigrations657f_1_1_.pdf

¹⁵ Between Round-ups and Regularisation: Morocco’s Vacillating Migration Policy, FIDH, 30 March 2015 <http://www.fidh.org/en/region/north-africa-middle-east/morocco/between-round-ups-and-regulations-morocco-s-vacillating-migration>

¹⁶ Cf. Note 7

<http://cndh.ma/fr/communiqués/migration-la-commission-nationale-de-recours-adopte-de-nouvelles-mesures-permettant-de>

On both sides of the border: arrests and forced relocation to make the undesirables invisible

In both Morocco and Algeria, the strategy of dispersal of those not authorised to be in the country continues.

In December 2014 and March 2015, arrest and expulsion operations also took place in all regions of Algeria, in particular in the large cities in the north of the country.

These so-called “repatriation” operations were carried out at 03:00 in the morning on 24 December 2014, following an agreement between Algeria and Niger for the return of 3,000 people, according to the information given by the Algerian authorities. The repatriation operations were carried out with the support of the civil protection services and the Algerian Red Crescent. In Oran, the country’s second largest city, these mass arrests led to the interrogation of around 600 people¹⁷. They were forcibly placed in a reception centre of the Algerian Social Action Services, where none of the people arrested were able to meet with local associations, as access to them was refused. Over 200 people, mostly women and children, were taken to Tamanrasset then expelled to Niger. Those from other countries were released, but no document attesting any right of residence was issued to them.

According to the Algerian League of Human Rights, these repatriations were not voluntary in any way, with some sections even denouncing the conduct of “collective expulsions”¹⁸.

In March and April 2015, two operations, one in Oran and the other in Tamanrasset, led to arrests in the early hours of the morning; it looked more like a hunt for Sub-Saharan than identity checks. Some who were not citizens of Niger, who had been arrested in December then released, were interrogated again and their personal information recorded: fingerprints, photograph, and marital status. In Oran, although the operation was carried out under the aegis of the Algerian Red Crescent, it was particularly notable for unprecedented police violence: a police raid, doors of migrants’ homes broken down, men and women dragged from bed, and appearance-based arrests, to the point that even dark-skinned Algerians were pursued in the streets.

In Morocco, within a span of six months, in February and August 2015, two large arrest operations marred by arbitrary and violent police practices took place around Nador and Oujda. Worryingly, in recent months, it seems that the use of arbitrary detention and forced relocation of migrant and refugee populations has intensified.

On 9 February 2015, the Ministry of the Interior suddenly announced the end of the regularisation operation, without informing its association partners and other public authorities. Between 10 and 12 February 2015, a mass search operation conducted by the Moroccan authorities (auxiliary forces, gendarmes and mobile intervention groups from other cities) took place in Nador and the surrounding area¹⁹. In total, almost 1,250 people, including pregnant women and minors, were arrested using violence, and the makeshift camps in the Gourougou forest destroyed²⁰. The authorities are said to have identified them by collecting a series of personal information: digital fingerprints, photo, nationality and marital status. However there is no assurance that fundamental rights guarantees concerning the use of this data will be respected.

People were then taken by coach to different locations on Moroccan territory, such as El Jadida, Errachidia, Youssoufia, Guelmima and Agadir. Gadem, an association for defending the rights of migrants and refugees which is based in Rabat, and the Collective of Sub-Saharan Communities in Morocco (CCSM), recorded a minimum of around twenty arbitrary detention locations²¹.

Along the same lines, the camp close to the University Mohammed I Faculty of Law in Oujda was destroyed (two lorries and a bulldozer used) on 15 August 2015, at around 04:00 in the morning. This raid took place after several months of calm. Two hundred people were taken by force to a sports hall in the city to verify their identities. According to the AMDH, those holding a residence permit or the confirmation they have submitted an asylum application, women, minors and one person monitored in the hospital El Farabi in Oujda were released, while the others were taken by coach to unknown destinations (probably Beni Mellal, Settat and Taza²²). Several of the people released were left without shelter after complete destruction of their makeshift housing. Having been under constant surveillance since 15 August 2015, migrants and refugees have

¹⁷ « Repatriation of Niger migrants from Algeria: A “raid” conducted with violence in Oran! » Niamey.com, 25 December 2014 <http://news.aniamey.com/h/25207.html>

¹⁸ « The repatriation of Niger’s migrants is no longer in any way ‘voluntary’ », Huffington Post Algeria, 25 December 2014 http://www.huffpostmaghreb.com/2014/12/25/migrant-niger-algerie_n_6379864.html

« Oran: LADDH denounces ‘collective expulsion’ of African migrants », Algérie Focus, 25 December 2014 <http://www.algerie-focus.com/blog/2014/12/rapatriement-de-migrants-africains-a-oran-la-laddh-denonce-une-expulsion-collective/>

¹⁹ « Raids on migrants in Morocco: The End of a Promising Policy? », EuroMed Rights & FIDH, 19 February 2015 <http://euromedrights.org/publication/raids-on-migrants-in-morocco-the-end-of-a-promising-policy/>

²⁰ AMDH (2015)

²¹ GADEM & CCSM (2015) Joint memorandum on arbitrary relocation and detection of migrants in Morocco following the raids of 10 February 2015 <http://www.gadem-asso.org/NOTE-D-INFORMATION-CONJOINTE-CCSM>

²² « Oujda: Dismantling of a makeshift camp of Sub-Saharan immigrants », Yabiladi, 17 August 2015 <http://www.yabiladi.com/articles/details/38254/oujda-demantelement-d-un-campement-fortune.html>

not been able to use this campus as their living space anymore. They were therefore pushed into places that are less accessible to humanitarian associations, where they are more vulnerable to the sometimes mafia-like community dynamics.

In the Moroccan case, while those holding a residence permit have been released quickly when unfairly detained, no one however is protected against forced relocation. The residence permit also fails to offer access to accommodation, despite the fact that the authorities were responsible for destroying the camps.

Refugees from Syria: from the Mashreq to the Maghreb, the never-ending exile

In the last two years, the number of refugees from Syria present in the Maghreb has seen an exponential growth. Until January 2015, Syrian nationals could enter Algeria without a visa. According to provisional figures from the United Nations, in 2015 the UNHCR took responsibility for almost 3,000 people from Syria in Algeria²³. Between January and September 2015, 2,719 people from Syria had filed an asylum application in Morocco²⁴. While many hoped to reach Europe from the Maghreb, it seems that the prospect of this is dwindling, not only due to the absence of legal means for refugees to access Europe²⁵, but also due to the militarisation and closing of the border between Algeria and Morocco. The visa obligation imposed by the Algerian authorities for people from Syria since the beginning of 2015²⁶ has made refugees even more vulnerable, as they are forced to use irregular means to find protection.

Despite having greater financial resources enabling them to cross the border more easily (differentiated treatment also due to the ambient racism towards Sub-Saharan), many refugees from Syria explain how their property is being stolen at the border with the complicity of the border guards.

Having previously been housed with the minimum necessary in Morocco, Syrian refugees (who are often families with young children) are no longer helped by the social or accommodation services in the city of Oujda. In Nador, those who could previously pay for hotel rooms are now forced to live on the street due to insufficient financial resources.

It is no longer certain that they will be able to travel to Europe. In June 2014, observers in Morocco and Algeria witnessed a Syrian family blocked between the Algerian ditch and the Moroccan fence between Maghnia and Oujda; in March 2015, observers in Morocco witnessed another Syrian family blocked this time on the border between Nador and Melilla; on 25 July 2015, over 120 people boarded an inflatable dinghy bound for Malaga.

This blockage at official crossing points continues to this day, with Syrian refugees required to pay large sums (between 400 and 3,000 euros) for a limited number of people allowed to cross, around twenty per day²⁷. As this report was being finalised in mid-October 2015, according to AMDH activists in Nador, the Spanish and Moroccan authorities demonstrated some flexibility towards Syrian refugees and allowed them to cross the border without paying. Nevertheless, there is no guarantee that this will continue.

As of December 2015, applications for regularisations by refugees from Syria were still pending. According to the UNHCR in Morocco: "The absence of legal status is preventing these refugees from obtaining a residence permit and are not allowed to work in Morocco (...) It is important that people in need of international protection are given a refugee card, like the one issued to for non-Syrian refugees who have been heard by the Commission"²⁸.

²³ Consultation of HCR Algeria site on 23 November 2015

²⁴ « HCR Morocco: 4,481 refugees registered as of 30 September 2015 », Aujourd'hui le Morocco, 29 October 2015 <http://www.aujourd'hui.ma/maroc/societe/hcr-maroc-4-481-refugies-enregistres-au-30-septembre-2015-121505#.VINLoc9Viko>

²⁵ EuroMed Rights (2015) Position Paper on Refugees from Syria <http://euromedrights.org/wp-content/uploads/2015/09/EMHRN-Position-Paper-on-Refugees-from-Syria-amended-EN.pdf>

²⁶ « How Algeria restricted Syrians' access to its territory », TSA, 5 September 2015 <http://www.tsa-algerie.com/20150905/comment-lalgerie-a-restreint-lacces-des-syriens-a-son-territoire/>

²⁷ « In Melilla, gateway to Europe for Syrian refugees », Huffington Post Maghreb, 10 September 2015 http://www.huffpostmaghreb.com/2015/09/10/melilia-refugies-syriens_n_8117206.html, « This is how the Syrian refugees pay the Moroccan police mafias to enter Spain », El Confidencial, 27 September 2015 http://www.elconfidencial.com/mundo/2015-09-27/asi-pagan-los-refugiados-sirios-a-las-mafias-policiales-marroquies-para-entrar-en-espana_1039027/

²⁸ « Le nombre de demandeurs d'asile syriens en augmentation exponentielle », Libération, 17 December 2015 http://www.libe.ma/Le-nombre-de-demandeurs-d-asile-syriens-en-augmentation-exponentielle_a69618.html

3. Respecting rights: civil society making up for the States' shortcomings

Birth registrations and burials run smoothly as the result of the perseverance of the civil society stakeholders. They have worked a lot in order for authorities to recognise the human rights of migrants and refugees.

Births

When children are born in hospital in Morocco, they are registered on the civil register at the court within one month from birth, using a birth certificate obtained from the hospital and an identity document belonging to the mother. Registration takes place within 48 hours. The mother of the child is not always able to prove her own identity. If she does not have identity documents, the child's mother must contact family in the country of origin to obtain copies. Local associations help with this process.

If children are not registered within a month of birth, they must be declared to the prosecutor by the mother herself, at the court of the first instance and in the presence of the child. This procedure costs 50 dirhams. Since 2014, these declarations have rarely been refused.

In Algeria, although the civil register code does not distinguish between children born of foreign parents or those born of Algerian parents, registration must take place within five days. However, practices varied in the past. In 2011, women migrants in irregular administrative situations without a residence permit were expelled without their newborn children, who had not been registered on the civil register, although they had given birth in a public hospital. Likewise, a few years earlier, children born from parents in irregular situations were registered as "born in transit". Various awareness-raising campaigns were conducted by intergovernmental organisations and associations in reaction to this event, directed in particular at hospitals. Since then, registration of births no longer seems to pose any difficulty. On 27 November 2015, in an exclusive interview with the KBC television channel, the Algerian health minister announced that the President of the Republic had given the instruction that all hospitals should provide care to Sub-Saharan migrants.

Deaths at the border zone

The number of deaths at the border increased in 2014-2015, according to estimates by the AMDH which has for example reported the case of three people who died of hypothermia in late January 2015. They had fallen into the ditch on the Algerian side, which was full of icy water, then with great difficulty scaled the fence on the Moroccan side, with the external temperature not rising above 0°C. The bodies were taken to the Oujda morgue.

In both Morocco and Algeria, identifying bodies is very difficult for several reasons: lack of identity documents, false identity and difficulty to communicating with the family). The community of origin plays a central role in connecting with family and obtaining a burial authorisation letter, which then allows a death certificate to be obtained from the embassy. In Oran, many bodies have remained in the morgue for years without being identified; the prosecutor's office never issues any authorisation to bury the deceased without clear identification of the body and authorisation from the family. In Morocco, only the family of the deceased can provide an official request for the cause of death; in practice, this request is never honoured, or the family is never contacted due to the impossibility of establishing identity or no attempts being made to do so. Consequently, for this type of case the records at Oujda morgue simply state "natural death".

AMDH has submitted several requests to the Oujda general prosecutor to open inquiries about the causes of death of at least four people over the last two years. So far, no response has been given to these requests.

These difficulties are not taken into consideration by the authorities and thus it is associations and civil society stakeholders which undertake the procedures as best they can. Sub-Saharan migrants are exempted from the payment of burial duties (600 DM) in the commune of Oujda, following repeated requests by associations and religious stakeholders. This decision remains discretionary and the situation may therefore change at any time.

Recommendations

EuroMed Rights recalls that the States have an obligation to respect the right to leave any country, including one's own, in accordance with article 13 of the Universal Declaration of Human Rights and article 12 of the International Covenant on Civil and Political Rights.

EuroMed Rights also recalls that, under international law and by certain pieces of national legislation, the Moroccan and Algerian authorities are legally bound to guarantee the economic and social rights of persons, including those who are not citizens of their country, to effectively respect minimum procedural guarantees and to ensure the protection of refugees on their territory.

EuroMed Rights and its member organisations recommend that the Moroccan and Algerian authorities:

- *Open the border and stop its militarisation, which is contributing to human rights violations;*
- *Guarantee the fundamental rights of migrants and refugees through specific mechanisms and support for civil society;*
- *Allow migrants and refugees to find accommodation, particularly in the winter season;*
- *Grant to all holders of UNHCR protection a residence permit and effective access to their economic and social rights (housing, work, healthcare, etc.);*
- *Document violations of rights, including causes of death, systematically, and inform the families of the disappeared;*
- *Ensure effective access to complaint mechanisms for all victims of violence, in particular racist violence (including by government employees), by allowing complaints to be filed without the requirement for evidence of the right to residency;*
- *Ensure systematic jurisdictional verification of detention and expulsion orders before any decision, and allow suspensive appeal against these decisions;*
- *Keep a register of those who die at the border and contact the consulates of the assumed countries of origin to facilitate identification of the body and inform the families;*
- *Allow the UNHCR to open offices outside Algiers and Tindouf, in Algeria, and outside Rabat, in Morocco, in order to ensure that persons in need of international protection can access the agency;*
- *In Morocco, amend the law 02-03, and in Algeria, amend the law 08-11, by abolishing in particular the offence of unauthorised immigration and the délit de solidarité (offence of solidarity – helping migrants);*
- *Respect the right of civil society to support people, document situations and freely exercise their right of inspection when carrying out their duties as members of associations, journalists or members of parliament;*
- *Make it easier for the staff of international NGOs to obtain visas to investigate the human rights situation.*

