



Maghreb countries « Safe » countries ?

September 2018

To classify a country as a «safe country of origin» – or «safe third country» – means that no risk of persecution exists in principle for nationals of that country or foreign nationals, and that their human rights are effectively respected, including the right of asylum.

The fragility of the rule of law in Maghreb countries does not guarantee the rights of people within their jurisdiction, and numerous rights violations are regularly reported by international organizations and civil society organisations.

Nevertheless, some European countries plan to consider them as such, despite the deterioration of the political situation and even the increase in rights violations in recent years in the Maghreb countries. In Germany, in June 2018, a bill was introduced by the Minister of the Interior to recognise Algeria, Morocco and Tunisia among others, as «safe countries of origin». The final vote of the Bundesrat on this law is expected in November 2018. In Belgium, the government renews its list of «safe countries of origin» every year, and the classification of Maghreb countries as «safe» is under debate again in 2018.

The use of the notion of “safe countries” has serious consequences for the rights of asylum seekers (see [analysis](#)): expedited examination of applications, non-suspensive appeals, likely rejection of the claim or, in the case of «safe third countries», inadmissibility of the asylum application. However, no country can be presumed safe, including Maghreb countries or even Member States of the European Union (EU). **Each asylum application must be examined individually: each personal situation is different and no country is free from dysfunctions or rights violations.**

Of the 14 existing national lists¹ in the EU designating countries as «safe», only Bulgaria mentions Algeria. No other state has wholly integrated one of the Maghreb countries on its list. In the Netherlands, a significant exclusion clause exists for the recognition of the Maghreb countries: these countries are considered «safe» except for LGBTQI+ people. This exclusion clause recognises, de facto, that these countries are not really «safe».

This factsheet presents, without purporting to be exhaustive, the serious infringements of rights and fundamental freedoms in each of these three countries, recorded by EuroMed Rights, its members and partners.

Public and individual freedoms

• **Obstacles to freedom of association and assembly**

Freedom of association is considerably limited in Algeria by [law n° 12-06](#), associated with the denial of official registration of organisations. Some meetings convened by civil society organisations are often [arbitrarily prohibited by authorities](#) or premises arbitrarily sealed. Repeatedly denounced by the ILO Committee on the Application of Standards is the fact that independent trade unions also face difficulties to register and that their managers are subject to constant judicial harassment. Similarly, in Morocco, meetings are prohibited or even prevented by force. Appeals to administrative justice courts have rebuked the decisions of public authorities but the practice continues. In Tunisia, [draft law n° 30/2018](#) calling for the creation of a national register of organisations threatens the freedom of association: in recent years courts have suspended or disbanded several organisations.

• **Obstacles to freedom of assembly**

In [Algeria](#), there is no space for independent civil society to engage in protest. In [Morocco](#) and [Tunisia](#), the violent repression of social movements that demand respect for economic and social rights is characterised by the often disproportionate use of force and the heavy prosecution of some members of these movements.

• **Obstacles to freedom of expression and freedom of the press**

Journalists and dissident voices are subject to harassment, prosecution and even imprisonment in all three countries under penal codes that criminalise the offense of contempt of authorities. This has been the case, for example, with the incarceration of journalists Hamid El-Mahdaoui and Rabii Elablaq who covered the [Hirak movement](#) in Morocco, or the 10-year prison sentence of blogger Merzouk Touati in Algeria.

2018 World Press Freedom Index by [Reporters Without Borders](#):

- [Algeria](#) : 136th rank
- [Morocco](#) : 135th rank
- [Tunisia](#) : 97th rank

¹ Austria, Belgium, Bulgaria, Croatia, Czech Republic, France, Germany, Hungary, Ireland, Luxembourg, Netherlands, Slovakia, Slovenia and United Kingdom. In Finland (and Norway) there is no list as such, but the concept of «safe» country of origin is used. Source: European Migration Network (EMN), March 2018: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_inform_safe_country_of_origin_final_en_1.pdf

- **Human rights defenders at risk**

Human rights defenders are often the target of direct pressure and retaliation, such as dismissals, judicial harassment ([Algeria](#)) and intimidation ([Tunisia](#)) or arbitrary arrests and detentions ([Morocco](#)). The [freedom of movement of activists is also violated](#).

- **Cases of torture and ill-treatment**

Instances of torture and ill-treatment, to varying degrees, have been reported in the three countries ([Morocco](#), [Algeria](#), [Tunisia](#)). Even where they exist, mechanisms for sanctioning the perpetrators and reparation for victims are relatively ineffective.

Violations of the rights of migrants and refugees

- **The unauthorised exit from the territory is punishable by imprisonment and financial penalties, which is in violation of international law**

The right to leave any country, including one's own, under Algerian (Law No. 09-01), Moroccan (Law No. 02-03) or Tunisian (Law No. 04-06) law is not guaranteed and unauthorised exit is punishable by imprisonment and fines.

- **No asylum legislation in Algeria, Morocco, or Tunisia**

No asylum law exists in the Maghreb: no person in need of international protection can have his/her situation investigated by an institution with national competence. No refugee status exists in the country. Although the local UNHCR offices issue cards in some cases, this does not guarantee any right except that of not being returned to the country of origin.

Mass arrests by law enforcement, forced displacement, detention of migrants, even when in a regular situation,

For further information

AEDH, EuroMed Rights, FIDH: « [Safe](#) » countries – a denial of asylum, May 2016

Algeria

EuroMed Rights on [Algeria](#)

[Alternative report for the United Nations Human Rights Committee](#), June 2018

Members of EuroMed Rights

- Collectif des Familles de Disparus en Algérie ([CFDA](#)) [Collective of Families of Disappeared in Algeria]
- Ligue Algérienne de Défense des Droits Humains ([LADDH](#)) [Algerian League for the Defense of Human Rights]
- Syndicat National Autonome des Personnels de l'Administration Publique ([SNAPAP](#)) [National Autonomous Union of Public Administration Staff]

Morocco

EuroMed Rights on [Morocco](#)

[Status report on violence against women](#), March 2018

3rd Universal Periodical Review: The Moroccan National Report Reviewed, 2 May 2017: joint submission by the members of EuroMed Rights [ADALA/QMDH](#), [ADFM](#), [AMDH](#).

and collective expulsions are on the rise in [Morocco](#) and [Algeria](#).

- **Impunity for perpetrators of frequent racist attacks against migrant and refugee communities, especially sub-Saharan communities ([Tunisia](#), [Morocco](#), [Algeria](#)). Racist attacks continue (denounced during [unprecedented protests in August 2018 in Tunisia](#), for example) and racial discrimination is still not punishable by law in any of the three countries**

Discrimination / Violence against women

In [Algeria](#), women face substantial discrimination due to the non-implementation of legislation combating [violence against women](#). In [Morocco](#), despite the adoption of law n° 103-13 on violence against women, heavily criticised by women's rights associations and in force since September 2018, victims still face persecution if they file a complaint without documenting their charges. Domestic violence and marital rape are not defined or explicitly considered crimes. In Tunisia, the organic law n° 2017-58 on the elimination of violence against women was adopted in August 2017. However, it does not include all the recommendations put forward by civil society, and effective implementation is still not fully guaranteed.

Rights of LGBTQI+ persons

The Penal Codes of the three countries criminalise relations between people of the same sex with prison sentences (up to 2 years in Algeria and 3 years in Tunisia) with recent cases resulting in people being persecuted for this reason in [Algeria and France](#) (March 2017), in [Morocco](#) (August 2017) and in [Tunisia](#) (2018).

EuroMed Rights members in Morocco

- Association Marocaine des Droits Humains ([AMDH](#)) [Moroccan Association of Human Rights]
- Organisation Marocaine des Droits Humains (OMDH) [Moroccan Organization of Human Rights]
- Association pour le droit à un procès équitable ([ADALA](#)) [Association for the Right to a Fair Trial]
- Association démocratique des femmes au Maroc ([ADFM](#)) [Democratic Women's Association in Morocco]
- [Espace Associatif](#)

Tunisia

EuroMed Rights on [Tunisia](#)

[Status report on violence against women](#), March 2018

Members of EuroMed Rights

- Association Tunisienne des Femmes Démocrates ([ATFD](#)) [Tunisian Association of Democratic Women]
- Centre Tunisienne Comité pour les Respect des Libertés et des Droits de l'Homme en Tunisie ([CRLDHT](#)) [Tunisian Centre of the Committee for Respect for Freedoms and Human Rights in Tunisia]
- Forum Tunisien pour les Droits Economiques & Sociaux ([FTDES](#)) [Tunisian Forum for Economic & Social Rights]
- Ligue Tunisienne pour la Défense des Droits de l'Homme ([LTDH](#)) [Tunisian League for the Defense of Human Rights]

Read this factsheet online:

www.euromedrights.org/publication/right-of-asylum-in-danger



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