



## Security Council

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### **Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) addressed to the President of the Security Council**

The Counter-Terrorism Committee has received the attached report which is submitted by Algeria pursuant to paragraph 6 of Security Council resolution 1373 (2001).

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

*(Signed)* Jeremy **Greenstock**  
Chairman of the Counter-Terrorism Committee



**Annex**

**Letter dated 24 December 2001 from the Permanent Representative of Algeria to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001)**

On instructions from my Government, I have the honour to transmit to you herewith the report submitted to the Counter-Terrorism Committee by the Government of Algeria in accordance with paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

The Government of Algeria stands ready to provide the Committee with other reports or information that may be required or requested by the Committee.

*(Signed)* Abdallah **Baali**  
Ambassador  
Permanent Representative

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established pursuant to resolution 1373 (2001)****Contents**

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## Introduction

Pursuant to paragraph 6 of resolution 1373 (2001) adopted by the Security Council on 28 September 2001, the Government of Algeria submits to the Counter-Terrorism Committee its report providing an overview of national measures to prevent and combat terrorism.

In so doing, Algeria seeks to reiterate its attachment to the principles and objectives of the Charter of the United Nations and to stress its willingness to contribute to full and effective implementation of the provisions of the resolution. Algeria is convinced that its application could herald an auspicious new era in international cooperation on counter-terrorism, provided the international community demonstrates the requisite political will and determination.

Having long suffered the ravages of terrorism, often in the face of indifference and occasional complaisance on the part of certain sectors of the international community, Algeria welcomes the adoption of the resolution insofar as it reflects a welcome acknowledgement by the international community of the potential threats both to national stability and to international peace and security represented by the scourge of terrorism. On 11 September, the world paid the price of underestimating the dangers posed by the terrorist threat and its potential for destruction.

Algeria attaches great importance to Security Council resolution 1373 (2001), which establishes the basis for an organized international response to terrorism in all its forms and manifestations.

It does so not only by virtue of its active commitment to international peace and security, but also since it perceives the present international team effort as corroborating its own consistently argued position on the nature of terrorism and its global implications.

As a result of the universal implementation of the resolution, Algeria thus hopes for clearer recognition and support for its own efforts to combat a transnational scourge that targets the country directly.

As a victim of terrorism, Algeria urges the international community to firmly commit itself to definitively abandoning erroneous and selective perceptions surrounding the phenomenon of terrorism.

Such a commitment should also help to combat the ambivalence, hesitation and reluctance that have hitherto prevailed.

Sustainable efforts to combat terrorism thus depend on transparent and unrestricted cooperation that is free from any manipulation and manoeuvring.

Indeed, to ensure the universality and effectiveness of efforts to combat terrorism, it is thus vital that terrorism not be confused with the struggle of peoples against colonial domination or foreign occupation.

The need for rigorous counter-terrorism efforts concerns first and foremost the countries whose territories are known to harbour support networks and to be used by terrorist groups as staging areas. It is incumbent on such countries to comply with requests for exchange of information or legal and technical assistance. They should also guard against any approach to terrorism that might appear selective. In the same vein, the fight against terrorism will hardly be effective if conceived as a

confrontation with a given civilization or religion. Unified and indivisible, the fight against terrorism must be universal, global and concerted; the commitment it entails can leave no room for ambiguity.

In addition to playing a powerful catalytic role in the revitalization of the existing legislative arsenal for counter-terrorism, the specific measures established in Security Council resolution 1373 (2001) should also generate momentum for strengthening the approach whereby specific manifestations of terrorism are separately addressed in international legal instruments in various domains, including through new legislation to fill gaps and correct weaknesses in international cooperation on counter-terrorism.

Accordingly, a comprehensive convention constituting the political and legal foundation for the fight against terrorism, capable of responding to contemporary challenges, is all the more essential given the importance of ensuring that the international response is commensurate with the multifarious and evolving nature of acts associated with transnational terrorism, the diversity of tools at the disposal of terrorists and the power of the transnational mechanisms that terrorists have employed with formidable cunning.

It is particularly important that such a convention should learn from the limitations and deficiencies in the existing legal arsenal for counter-terrorism by reinforcing the effectiveness of the “prosecute or extradite” principle, including a clause of universal jurisdiction and categorizing terrorist acts according to the gravity of the offences, with corresponding sanctions.

Such an instrument should serve as a point of reference for concerted global management of international risk, of which terrorism is the most intolerable form, given that it denies the most elementary human right, the right to life.

A global effort to combat the scourge of terrorism also requires adequate enforcement measures to ensure that the recent affirmation of political will to eradicate terrorism — wherever it may occur — is translated into action.

The Counter-Terrorism Committee established by the Security Council to monitor implementation of Security Council resolution 1373 (2001) is a welcome initiative. In addition, however, there is a need for fair and transparent institutional arrangements to achieve sustainability of the international community’s counter-terrorist efforts as well as the necessary resources to ensure that such efforts are effective and credible.

It is thus essential to have a monitoring, prevention and control mechanism under United Nations auspices entrusted with permanent assessment of the situation and ongoing coordination of cooperation between law enforcement agencies and judicial authorities.

Algeria believes that all these considerations are consistent with the approach which views implementation of Security Council resolution 1373 (2001) in terms of evolving and pursuing far-reaching international cooperation that will sustain the long-term efforts required if terrorism is to be prevented and uprooted.

## **Legal framework for preventing and combating terrorism**

### **I. Definition of the terrorist act**

Algeria's national laws and regulations have been gradually tailored to the sovereign goals of the State in matters of counter-terrorism, with a view to encompassing all activities associated with preventing, suppressing and combating terrorism and terrorist networks throughout national territory.

Legislative Decree No. 92-03 of 30 September 1992 on combating subversion and terrorism, amended and supplemented by Legislative Decree No. 93-05 of 9 April 1993, defines the remit of the public authorities with regard to the sanctioning of terrorist acts. The Penal Code and the Code of Penal Procedure have been amended to strengthen the national legal arsenal in this domain.

Article 1 of Decree No. 93-03, reproduced in article 87 bis of Ordinance No. 95.11 of 25 February 1995 amending and supplementing Ordinance No. 66.156 of 8 June 1966 enacting the Penal Code, defines as a subversive or terrorist act "any offence targeting State security, territorial integrity or the stability or normal functioning of institutions through any action seeking to:

- Spread panic among the public and create a climate of insecurity by causing emotional or physical harm to people, jeopardizing their lives or freedom or attacking their property;
- Disrupt traffic or freedom of movement on roads and obstruct public areas with gatherings;
- Damage national or republican symbols and profane graves;
- Harm the environment, means of communication or means of transport;
- Impede the activities of public authorities and bodies serving the public, or the free exercise of religion and public freedoms;
- Impede the functioning of public institutions, endanger the lives or damage the property of their staff, or obstruct the implementation of laws and regulations".

Article 2, reproduced in article 88 bis 3 of the Penal Code, equates the following with terrorist acts:

- Establishment of associations, bodies, groupings or organizations for the purpose of engaging in subversive or terrorist activities;
- Membership or participation in such subversive or terrorist associations in any form;
- Advocating terrorism and encouraging or funding terrorist activities;
- Reproducing or disseminating documents, recordings or printed matter advocating terrorism.

The above-mentioned Ordinance No. 95.11 amended the Penal Code to reflect new realities and the development of terrorist activities at national and transnational levels, with a view to incorporating in the definition the following terrorist acts:

- Any Algerian who participates or enrolls abroad in a terrorist or subversive association, grouping or organization, whatever its form or name, even if its activities are not directed against Algeria;
- Any person who sells, purchases, distributes, imports or manufactures knives for illicit purposes;
- Any person who possesses, obtains, carries, markets, imports, exports, manufactures, repairs or utilizes prohibited weapons, ammunition or explosives without authorization from the competent authority.

## II. Implementation of counter-terrorism measures

In developing legal measures to combat terrorism and subversion, Algerian legislators have taken into account all the rights and obligations of accused persons and the fundamental aspect of human rights in the processing of cases brought before the national courts.

Act No. 01-08 of 26 June 2001 amending and supplementing Ordinance No. 66.155 of 8 June 1966 enacting the Code of Criminal Procedure is the basic text concerning suppression of acts of terrorism.

- **House searches**

In the case of crimes categorized as acts of terrorism or subversion, the examining magistrate may instruct the competent members of the criminal investigation service to conduct any search or seizure, by day or by night, in any place throughout the national territory (cf. art. 47 of Ordinance No. 95.10 of 25 February 1995).

The examining magistrate may also take other measures, as provided by the laws in force, and order any preservation measure, either *ex officio* or on application by the *Ministère public*, or at the request of a member of the criminal investigation service.

- **Placing under police custody**

If a member of the criminal investigation service needs for the purposes of the investigation to place one or more persons in custody, he must inform the public prosecutor and submit to him a report concerning the reasons for so doing; no one may be held in police custody for more than 48 hours (art. 51, as amended and supplemented by Act No. 01-08 of 26 June 2001).

All prescribed time limits are doubled where a breach of State security is concerned. These time limits may, with the written authorization of the public prosecutor, be extended up to a maximum of 12 days in the case of crimes categorized as acts of terrorism or subversion.

- **Pre-trial detention**

Pre-trial detention is an exceptional measure. It may be ordered or prolonged, in exceptional circumstances, only if conditional bail does not provide sufficient guarantees (cf. art. 123 of the above-mentioned Act).

In criminal cases, pre-trial detention is for four months. However, should it prove necessary, the examining magistrate may, through submission of a reasoned order and on application by the public prosecutor, extend the pre-trial detention twice, for a period of four months each time.

Where terrorist crimes are concerned, the examining magistrate may extend the pre-trial detention five times — article 125 bis, Act No. 01-08 of 26 June 2001. In the case of transnational crimes, the examining magistrate has the option of extending the pre-trial detention 11 times, for a period of four months each time.

- **Nature of the punishments imposed for acts of terrorism and terrorist activities**

The Penal Code, in article 87 bis 1, provides the following punishments for crimes categorized as terrorist or subversive:

Death, when the punishment provided by law is rigorous imprisonment for life (however, the death penalty was suspended in 1993 and this moratorium has been strictly observed since then);

Rigorous imprisonment for life, when the punishment provided by law is 10 to 20 years' rigorous imprisonment;

10 to 20 years' rigorous imprisonment, where the punishment provided by law is 5 to 10 years' rigorous imprisonment.

Act No. 89-05 of 25 April 1989 also provides the following complementary penalties:

Restricted residence;

Expulsion;

Forfeiture of certain rights;

Partial confiscation of property;

Dissolution of a legal person;

Publication of the sentence.

The criminalization of acts of terrorism means that the punishments are proportionate to the nature of the act committed:

Any person who creates, founds, organizes or directs any association, body, group or organization categorized as terrorist is liable to rigorous imprisonment;

Membership of or participation in this type of organization is punishable by 10 to 20 years' rigorous imprisonment;

Acts involving prohibited arms and ammunition are punishable by 10 to 20 years' rigorous imprisonment and a fine of from DA 500,000 to DA 1,000,000, and acts involving knives by 5 to 10 years' rigorous imprisonment and a fine of from DA 100,000 to DA 500,000;

Use of a place of worship to preach without authorization from the competent public authorities is punishable by 1 to 3 years' non-rigorous imprisonment and a fine of from DA 10,000 to DA 100,000;



Any person who, whether through preaching or any other action, engages in activities that are contrary to the noble mission of places of worship or are likely to undermine social cohesion or to advocate and incite terrorism is liable to 3 to 5 years' non-rigorous imprisonment and a fine of from DA 50,000 to DA 200,000;

The advocating and financing of terrorist crimes are punishable by 5 to 10 years' rigorous imprisonment and a fine of from DA 100,000 to DA 500,000;

The reproduction or dissemination of documents advocating terrorism is punishable by 5 to 10 years' rigorous imprisonment and a fine of from DA 100,000 to DA 500,000;

The handling or use of explosives for subversive ends, taking into account the resulting loss of life and the scale of the damage caused, is punishable by death.

- **Competent courts**

The criminal court is the court competent to try acts categorized as subversive or terrorist acts and referred by final decision of the indictment division, in accordance with the provisions of Ordinance No. 95.10 of 25 February 1995.

This body has unlimited jurisdiction to try adults or minors of 16 years of age who have committed subversive or terrorist crimes. It is also competent to try any individual accused of belonging to a terrorist group or organization, participating directly or indirectly in or contributing to the organization of a terrorist act, or instigating a terrorist act.

This jurisdiction extends to the encouragement, financing of and fund-raising for terrorist groups and complicity with a terrorist organization. It also covers the purchase, sale and manufacture of knives for illicit purposes and the importation, use and marketing of prohibited arms.

The criminal investigation service exercises national, rather than territorial, jurisdiction over all terrorist or subversive activities and is competent to conduct the necessary investigations. Its members work under the supervision of the territorially competent public prosecutor.

- **Scope of application of Algerian law**

The criminal law is applicable to all offences committed in the territory of the Republic. It is also applicable to offences committed abroad where they are amenable to the jurisdiction of the Algerian criminal courts by virtue of the provisions of the Code of Penal Procedure. The scope of application of the Penal Code is thus broadened to include activities carried out by Algerians abroad, even where the acts in question are not directed against Algeria.

Act No. 01-08 of 26 June 2001, in its article 125 bis, recognizes the jurisdiction of Algerian courts over serious transnational offences. The examining magistrate may order pre-trial detention of four months' duration, which may be extended, pending the gathering of evidence to support the charge by the parties concerned.

As to acts committed on board flag vessels and aircraft, Algerian law establishes the jurisdiction of Algerian courts where a serious or less serious offence is committed:

- On the high seas, whatever the nationality of the perpetrator;
- In an Algerian port on board a foreign merchant vessel;
- On board a foreign aircraft if the perpetrator or victim is Algerian, or if the aircraft lands in Algeria after the commission of the offence.

Territorial jurisdiction depends on where the aircraft lands or on the place of arrest in Algeria, if the act takes place after landing.

- **Conditions for the entry and stay of aliens in Algeria**

Algerian legislators have adopted measures governing the conditions for the entry and stay of aliens in Algeria: Ordinance No. 66.211 of 21 July 1966 concerning the situation of aliens in Algeria.

Any violation of the provisions of this Ordinance is punishable by law:

- Art. 23: “Any alien entering the national territory in breach of articles 4 and 6 shall be liable to 2 to 6 months’ non-rigorous imprisonment”.
- Art. 24: “Any person who facilitates or attempts to facilitate, directly or indirectly, the illegal entry, movement or stay of an alien shall be liable to non-rigorous imprisonment of from 2 months to 1 year”.
- Any employer or landlord who infringes these provisions shall also be liable to criminal prosecution.

- **Right of asylum and extradition**

Algeria, which is itself confronted by terrorism, is extremely vigilant in respect of the granting of the right of asylum to aliens. The Algerian authorities have not yet had to deal with any applications from individuals likely to have been involved in acts of terrorism. However, Algeria has had to draw the attention of certain Governments to individuals wanted by the Algerian authorities for terrorist crimes who have been granted the right of asylum. From their places of residences these individuals are continuing with complete impunity openly to support terrorism in Algeria.

In addition, the various terrorism-related extradition requests transmitted by Algeria have yet to meet with a favourable outcome. In this context, it should be noted that, apart from the lack of political will in this regard, one of the main problems lies in the fact that there is no deadline by which the requested State must rule on the extradition request. This issue represents a major obstacle to the development of judicial cooperation between States.

### **III. Measures adopted to suppress financing of terrorism**

Algerian legislation relating to fund-raising, financing of terrorism, exchange control and regulation of movements of capital into and out of the country provides for criminal and correctional penalties as well as fines.

- **Illegal fund-raising**

Fund-raising activities must be authorized in advance exactly as described in Ordinance No. 77.03 of 19 February 1977. Any violation of the provisions of this Ordinance is punishable by one month to two years' imprisonment.

- **Financing of terrorism**

As early as 1995, Algeria was one of the first countries to criminalize the financing of terrorism by adopting Ordinance 95.11 of 25 February 1994, which makes the financing of terrorism punishable by from 5 to 10 years' rigorous imprisonment.

- **Exchange control and regulation of movements of capital into and out of the country**

Algeria takes a regulatory approach to managing international financial transactions. Surveillance of financial flows out of Algeria and from abroad is facilitated by the partial convertibility of the Algerian dinar, exchange control and the monitoring by the Bank of Algeria of all financial operations carried out by public or private banking institutions.

Exchange control is aimed at discouraging and suppressing all illegal or fictitious operations. The traceability of international transfers of funds through the flow of funds out of and into Algeria provides an additional safeguard. Trade in services require prior authorization based on a supporting file and the approval of the Bank of Algeria is needed in order to act as an intermediary. Further, funds generated by import and export operations must be channelled through an intermediary approved by the Bank of Algeria who is responsible for checking the legality of contracts and operations relating to foreign trade. Lastly, the compensation for export operations is repatriated in convertible currencies, and investments involving imported capital are covered by the transfer guarantee only if the capital imports have been duly certified by the Bank of Algeria.

Ordinance No. 96.22 of 9 July 1996, concerning the punishment of offences under legislation and regulations governing exchange and capital movements into and out of the country, provides in article 1 that non-observance of the legal procedures or any false declaration shall be considered an offence punishable by imprisonment with a fine, and extends liability for such acts to entities governed by public or private law.

It should be stressed that the freezing or forfeiture of financial assets linked to terrorist or subversive acts, or intended for their financing, are procedures that can be carried out by the competent court in the framework of preliminary investigations or judicial inquiries once it is established that the assets were used to support and finance terrorist acts. The court seized of the matter may also order the confiscation of property and financial assets intended for the support of such acts. Measures for freezing, provisional attachment and confiscation are governed by the provisions on complementary penalties and security measures in the Penal Code.

#### **IV. Punishment of recruitment**

The recruitment abroad of any Algerian to a terrorist organization is severely punished under Algerian legislation. Article 87 bis 6 of the Penal Code provides for 10 to 20 years of rigorous imprisonment and a fine of from DA 500,000 to DA 1,000,000 for any Algerian who is active or enrolled in a terrorist or subversive association, group or organization abroad, whatever its structure or name, even if its activities are not directed against Algeria.

Article 87 bis 4 — Ordinance No. 95 — punishes the offence of advocating terrorism by 5 to 10 years' imprisonment and a fine of from DA 100,000 to DA 500,000.

The creation of groups, organizations or associations for subversive ends or for the perpetration of terrorist attacks is combated in Algeria by legal means and in the framework of the law. However, national counter-terrorist efforts cannot prevent enrolment in such groups abroad. Certain host countries have permissive rules and lenient attitudes towards these groups, readily grant them a safe haven, and acquiesce in their using the right to freedom of expression in order to advocate terrorist crimes. This has contributed to the upsurge of terrorist acts in Algeria.

#### **V. International cooperation**

Terrorism is so transnational, widespread and serious that broad cooperation among States is essential to create the bilateral, regional and multilateral mechanisms needed to prevent and combat it. Because of the threat posed by this scourge to international peace and security, terrorist acts must be addressed with the utmost speed, primarily by means of information exchange and legal cooperation between States.

Over the past decade, Algeria has unceasingly called the attention of the international community to the dangers and threats posed by staging points and networks that serve as rear bases for terrorist groups and that act with impunity by taking advantage of the indulgent policies of certain States.

Regulations and legislative measures to combat such networks have been advocated at regional and international meetings convened for the purpose of adapting the relevant standards, principles, objectives and measures to the transnational character of terrorism and its threat, latent or visible, to all countries.

In the framework of these meetings, Algeria has made proposals with regard to the following:

- Criminalization of advocacy and instigation of terrorist acts through any information or communication media by persons living, residing or passing through the territory of any other State or States;
- Prohibition and criminalization of the printing, publication and dissemination by such persons of any bulletins, announcements or pamphlets advocating criminal terrorist attacks on the interests and security of any other State or States;

- Prohibition of fund-raising by persons acting under cover of welfare associations or charitable organizations for the financing of terrorist acts directed against the interests and security of any other State;
- Stricter checks on the acquisition of movable and/or immovable property in the territory of any State that could serve as a cover or haven for terrorist attacks on the interests and security of any other State;
- Freezing and confiscation of financial assets intended for the financing of terrorist attacks on the interests and security of States.

Although the international community has become aware of the dangers of the terrorist scourge, Algeria continues to encounter obstacles, opposition and reluctance on the part of certain countries when it comes to incorporating these proposals into appropriate legislative and operational provisions.

## **VI. Ratification of international conventions**

Algeria has ratified 11 universally applicable international anti-terrorist instruments. It is in favour of the speediest possible adoption, under United Nations auspices, of a comprehensive convention on the prevention and control of terrorism. To this end it has been working tirelessly, together with other States, to finalize the draft international convention against terrorism which is before the United Nations General Assembly.

Algeria is also a party to the conventions on the prevention and control of terrorism adopted by the League of Arab States, the Organization of African Unity (OAU) and the Organization of the Islamic Conference, and took an active role in their drafting and adoption. The OAU Convention on the Prevention and Combating of Terrorism was thus adopted and signed at Algiers at the thirty-fifth OAU Summit held in July 1999.

It is Algeria's view that adopting sectoral legal instruments for the control of terrorism is important but not sufficient. Only a comprehensive international convention will provide the right framework for effectively preventing and combating the scourge of terrorism.

## **VII. Bilateral cooperation**

Since 1963, at the bilateral level Algeria has concluded 21 legal conventions, of which 15 have been ratified (Morocco, Tunisia, Mauritania, Libyan Arab Jamahiriya, Egypt, Syrian Arab Republic, France, Belgium, Bulgaria, Poland, Hungary, Romania, Mali, Niger, Turkey), five have been signed as part of the ratification process (United Arab Emirates, Jordan, Cuba, South Africa — two conventions), and one has been initialled (Yemen).

Negotiations are under way to conclude bilateral conventions with eight countries (Pakistan, Sudan, Russian Federation, Nigeria, Canada, Qatar, Italy, Argentina).

In addition, in pursuance of Security Council resolution 1373 (2001), Algeria has transmitted 14 draft bilateral conventions on legal cooperation and assistance

through the diplomatic channel to the following countries: Albania, Azerbaijan, Bosnia-Herzegovina, Denmark, Georgia, Germany, Islamic Republic of Iran, Ireland, Malaysia, Netherlands, Spain, Switzerland, Thailand, United Arab Emirates, United Kingdom, United States of America and Yemen.

At the same time, Algeria has undertaken bilateral consultations at the ministerial level with some of its partners with a view to setting up mechanisms for collaboration, information exchange and cooperation in combating terrorism.

## **Conclusion**

A review of Algeria's legal framework for preventing and combating terrorism illustrates the changes that have been introduced since the early 1990s to adapt Algerian legislation to the new context created by the scourge of terrorism.

For example, Algeria was one of the first countries to adopt legal standards for combating terrorism. Algerian legislators are determined not to allow the crime of terrorism to go unpunished, regardless of the perpetrator, victim, motive or place, and intend to ensure that the country's legal system and actions faithfully reflect the cardinal principle of international criminal law "prosecute or extradite".

By continually adapting its national legal framework, the country is responding to two concerns: penalties must cover the multiple variants and permutations of the terrorist scourge, and counter-terrorism must respect the rule of law and the universal human rights standards.

Algeria, which has paid a heavy price in its struggle against terrorism, stands ready to place its experience at the disposal of the international community. It is in favour of a new global strategy that would provide appropriate structures for dealing with the underlying causes of the terrorist phenomenon and with any related issues of causation or justification and that would open up new perspectives and opportunities to build efficient counter-terrorist cooperation in all spheres and at all levels while avoiding any risk of confusion and dispersion of effort.

It reaffirms its attachment to the adoption of a comprehensive convention for combating transnational terrorism and proposes the creation of an international support fund that would provide the developing countries with aid of various kinds, including technical assistance, to help them adapt and harmonize their national legislation and acquire the facilities needed for a comprehensive and effective response to this scourge.

Lastly, it proposes that the system of periodic reporting by States on implementation of their legal commitments under the conventions and their obligations under resolution 1373 (2001) should be made permanent, enabling all States to participate effectively and transparently in the fight to eradicate terrorism for the benefit of civilization and all of humankind.

A series of concrete proposals to this end are described in the attached aide-mémoire.