



Ministerie van Buitenlandse Zaken

Brief thematic country of origin information
report concerning the principle of double
jeopardy, foreign judgments and privacy

Date July 2023

Publication details

City/town
Prepared by

The Hague
Country of Origin Information Unit (DAF/AB)

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This translation has been co-funded by the European Union.

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Introduction

This report addresses the questions asked and points for consideration mentioned in the Terms of Reference (ToR) compiled by the Ministry of Justice and Security. The ToR for this country of origin information report were adopted on 11 April 2023. These ToR, together with the report, are available on the website of the Dutch Government.

This brief thematic country of origin information report examines the application of the principle of double jeopardy in Algeria,¹ the recognition of foreign judgments by Algeria and privacy legislation in Algeria, to the extent relevant to the implementation practice of the Repatriation and Departure Service (RDS). This country of origin information report constitutes a factual, neutral and objective account of the findings. It is not a policy document, nor does it reflect the government's vision or policy in relation to any given country or region. It does not contain any conclusions concerning immigration policy.

This country of origin information report has been compiled on the basis of public and confidential sources, using carefully selected, analysed and verified information. In the compilation of this report, use was made of information from various sources, including relevant government agencies, literature and legislation. Except where the facts are generally undisputed or unless stated otherwise, the content in this country of origin information report is based on multiple sources. The public sources that were consulted are listed in Section 4.

This country of origin information report also draws on information obtained through the diplomatic representation of the Netherlands in Algeria and correspondence with expert sources, amongst other sources. The information gleaned in this way was mainly used to support and augment passages founded on publicly available information. Each of these sources is marked as a 'confidential source' in the footnotes and accompanied by a date.

Section 1 addresses the application of the principle of double jeopardy in Algeria, and Section 2 discusses the recognition of foreign judgments by Algeria. Section 3 concerns privacy legislation in Algeria.

¹ An older country of origin information report, which was published in February 2014, also addresses the application of double jeopardy and the recognition of foreign judgments in Algeria; see <https://www.rijksoverheid.nl/documenten/country-of-origin-information-reporten/2014/02/06/algeria-ne-bis-in-idem-beginsel-en-erkenning-buitenlandse-vonnissen>.

1 Double jeopardy

The principle of double jeopardy means that no person can be prosecuted or punished again for the same acts if proceedings have been lawfully instituted against that person that have resulted in a final judgment.²

1.1 Laws and regulations in Algeria

The principle of double jeopardy is contained within the legislation and regulations of Algeria. No distinctions are made according to the nature of the offence.

In Algeria, the principle is enshrined in Articles 6.1 and 311.2 of the Algerian Code of Criminal Procedure, Order No 66-155 of 8 June 1966 amending and supplementing the Code of Criminal Procedure.

Article 6.1 of the Algerian Code of Criminal Procedure states that the right to enforce the sentence shall expire by the final judgment,³ as well as by the death of the suspect, time-barring, amnesty and the criminal law becoming inoperative.⁴

According to Article 311.2 of the Algerian Code of Criminal Procedure, a person who has been lawfully acquitted cannot be re-arrested or indicted and charged for the same offences, even with a different qualification of the offence.⁵

In addition, Algeria has ratified the International Covenant on Civil and Political Rights and is therefore bound by its articles. Article 14.7 of this Convention confirms the principle of double jeopardy at the international level and makes it mandatory in domestic law. Under this article, no individuals can be prosecuted or punished for an offence of which they have already been acquitted or convicted by a final judgment in accordance with the law and criminal procedure of each country.⁶

1.2 Application of the principle of double jeopardy in Algeria

In practice, the various judicial authorities in Algeria respect the principle of double jeopardy. No distinctions are made according to the nature of the offence.⁷ According to one source, the criminal justice authorities in Algeria do not prosecute for the same acts, even if the offence has a different qualification.⁸

² Ramdane Zerguine, Algérie, les compétences criminelles concurrentes nationales et internationales et le principe ne bis in idem, *Revue internationale de droit pénal*, vol. 73, No. 3-4, 2002, p. 773.

³ 'The final judgment' refers to an irrevocable judgment.

⁴ Algeria, *Code de Procédure Pénale Algérien « CPPA » - Ordonnance No 66-155 du 08 juin 1966 portant Code de Procédure Pénale modifié et complété*, Article 6.1. The article stipulates: » L'action publique pour l'application de la peine s'éteint par la mort du prévenu, la prescription, l'amnistie, l'abrogation de la loi pénale et la chose jugée. »

⁵ Algeria, *Code de Procédure Pénale Algérien « CPPA » - Ordonnance No 66-155 du 08 juin 1966 portant Code de Procédure Pénale modifié et complété*, Article 311.2.

⁶ United Nations, *Internationaal Verdrag inzake burgerrechten en politieke rechten*, New York, 16-12-1966, Article 14.7; Confidential source, 28 March 2023.

⁷ Confidential source, 28 March 2023; Ramdane Zerguine, Algérie, les compétences criminelles concurrentes nationales et internationales et le principe ne bis in idem, *Revue internationale de droit pénal*, vol. 73, No. 3-4, 2002, pp. 773-785.

⁸ Confidential source, 28 March 2023.

According to one source, the application of the principle does not make distinctions between citizens based on ethnicity, religion or belonging to a particular group in society.⁹

⁹ Confidential source, 21 April 2023.

2 Foreign judgments

2.1 Laws and regulations in Algeria

In Algeria, the laws and regulations include the recognition of foreign judgments. This is stipulated in Articles 589, 582 and 583 Algerian Code of Criminal Procedure (ACCP). In these articles, no distinctions are made according to the nature of the offence.

2.1.1 *Recognition of foreign judgments of non-Algerian nationals*

In Article 589 ACCP, the authority of a foreign judgment is recognised if it concerns a criminal offence that was committed in Algeria by a foreigner upon whom a final judgment has been imposed abroad.¹⁰

For example, Article 589 ACCP states that no prosecution for a crime or offence committed in Algeria can be instituted against foreigners who can prove that they have been convicted for this crime or offence by final judgment abroad and, in the case of sentencing, have served their sentence or that this sentence has become time-barred or that they have been pardoned.¹¹

2.1.2 *Recognition of foreign judgments of Algerian nationals*

Foreign judgments of Algerian nationals who have committed a criminal offence outside Algerian territory are also recognised by Algerian laws and regulations.

Article 582 ACCP states that any offence qualified as a *crime*, punishable under Algerian law, and committed outside the territory of the Republic by an Algerian may be prosecuted and tried in Algeria. However, the prosecution and trial cannot take place unless the person concerned has returned to Algeria and cannot prove having been convicted by final judgment abroad and, in the case of sentencing, having served the sentence or the sentence having become statute-barred or having been pardoned.¹²

Section 583 ACCP describes the same as Section 582 ACCP, but concerns the recognition of foreign judgments relating to *violations* rather than crimes.¹³

2.2 Recognition of foreign judgments in Algeria in practice

The Algerian authorities take into account criminal judgments pronounced abroad and already executed against Algerian nationals. The principle of double jeopardy is subject to certain conditions, as described below.¹⁴

¹⁰ Algeria, *Code de Procédure Pénale Algérien « CPPA » - Ordonnance No 66-155 du 08 juin 1966 portant Code de Procédure Pénale modifié et complété*, Article 589.

¹¹ Algeria, *Code de Procédure Pénale Algérien « CPPA » - Ordonnance No 66-155 du 08 juin 1966 portant Code de Procédure Pénale modifié et complété*, Article 589.

¹² Algeria, *Code de Procédure Pénale Algérien « CPPA » - Ordonnance No 66-155 du 08 juin 1966 portant Code de Procédure Pénale modifié et complété*, Article 582.

¹³ Algeria, *Code de Procédure Pénale Algérien « CPPA » - Ordonnance No 66-155 du 08 juin 1966 portant Code de Procédure Pénale modifié et complété*, Article 583.

¹⁴ Ramdane Zerguine, *Algérie, les compétences criminelles concurrentes nationales et internationales et le principe ne bis in idem*, *Revue internationale de droit pénal*, vol. 73, No. 3-4, 2002, pp. 773-785; Confidential source, 28 March 2023.

2.2.1 *Conditions relating to the foreign judgment*

Foreign criminal judgments are recognised under certain conditions. The judgments must be from a court with jurisdiction abroad, in accordance with the rules of international jurisdiction in Algerian law. The judgment must have been delivered within the context of lawful proceedings, with reference to foreign law and with application of the right to defence at all stages of the proceedings. It must be an irrevocable judgment, rendered by a court in an adversarial manner.¹⁵ Prosecution decisions do not have the same authority.¹⁶

2.2.2 *Conditions relating to the offence*

In addition to these conditions, the principle of double jeopardy is limited by a number of conditions related to the offence.

As in domestic law, the same offence cannot lead to a double conviction. This means that the offence underlying the first conviction must be identical for the principle of double jeopardy to be applied internationally. This could cause problems in some cases, as some foreign judgments are not recognised in domestic law. For example, criminal out-of-court settlements¹⁷ within the financial or customs domain would not preclude prosecution in the case of smuggling goods or persons across borders. The same applies in a number of cases when the qualifications of the offences¹⁸ in domestic law and foreign law do not correspond (e.g. in the case of participation in a criminal organisation or aircraft hijacking). In such cases, domestic law takes precedence.¹⁹

Another limitation to the principle of double jeopardy is when the criminal offence was committed either wholly or in part abroad, but the offence relates to the country in legal terms. This is relevant particularly in crimes and violations against state security and counterfeiting.²⁰ These offences may be excluded from the principle.²¹

2.2.3 *Conditions relating to the sentence*

For the principle of double jeopardy to apply, the sentence must have been enforced, time-barred or pardoned. In Article 582, amnesty is not listed as one of the reasons for application of the principle. According to one source, in practice, amnesty might indeed fall under the category of pardon, such that it does provide cause for the application of the principle of double jeopardy.²²

With regard to the collateral consequences of a foreign conviction, neither the law nor case law takes into account foreign criminal convictions, in particular with regard

¹⁵ A judgment is adversarial if the party is present or represented at all stages of the court proceedings in which evidence or allegations are brought against it and is able to put forward a defence on them.

¹⁶ Ramdane Zerguine, *Algérie, les compétences criminelles concurrentes nationales et internationales et le principe ne bis in idem*, *Revue internationale de droit pénal*, vol. 73, No. 3-4, 2002, pp. 773-785; Confidential source, 28 March 2023.

¹⁷ For a criminal out-of-court settlement, the prosecutor offers the accused the option of settling a criminal case out of court. If the accused agrees, the prosecutor will waive further criminal proceedings; see rechtspraak.nl (<https://www.rechtspraak.nl/juridische-begrippen/Paginas/transactie.aspx>). An out-of-court settlement is not possible unless sufficient evidence of the criminal offences has been gathered and the public prosecution service cannot impose anything other than a fine or community service.

¹⁸ In criminal law, qualification refers to determining the nature of a criminal act by giving its legal name and citing the article in which it is criminalised; see rechtspraak.nl (<https://www.rechtspraak.nl/juridische-begrippen/Paginas/kwalificatie-in-het-strafrecht.aspx>).

¹⁹ Ramdane Zerguine, *Algérie, les compétences criminelles concurrentes nationales et internationales et le principe ne bis in idem*, *Revue internationale de droit pénal*, vol. 73, No. 3-4, 2002, pp. 773-785; Confidential source, 28 March 2023.

²⁰ See Art. 588 ACCP in this regard.

²¹ Ramdane Zerguine, *Algérie, les compétences criminelles concurrentes nationales et internationales et le principe ne bis in idem*, *Revue internationale de droit pénal*, vol. 73, No. 3-4, 2002, pp. 773-785.

²² Confidential source, 21 April 2023.

to recidivism, entry in the criminal record, suspended sentence or non-cumulation.²³²⁴ In the absence of a legal text regulating the secondary effects of a ruling, the national court charged with deciding on these measures, after verifying the lawfulness and legality of the ruling, passes judgment on the application of the measure. In doing so, it has broad discretion, whereby the national court can exercise its own judgment.²⁵

The matter is somewhat more nuanced with regard to foreign judgments imposing disqualifications, revocations and legal incapacity as sanctions. For example, there are a variety of provisions relating to the protection or moral justification of certain economic, financial and commercial activities, in which individuals are denied access to or the practice of certain professions. Foreign rulings in respect of disqualifications, revocations and declarations of incapacity are therefore recognised by the Algerian authorities when persons have been irrevocably convicted by the foreign court.²⁶

²³ In civil procedural law, cumulation refers to the aggregation of multiple legal claims; see [rechtspraak.nl \(https://www.rechtspraak.nl/juridische-begrippen/Paginas/cumulatie.aspx\)](https://www.rechtspraak.nl/juridische-begrippen/Paginas/cumulatie.aspx).

²⁴ Ramdane Zerguine, *Algérie, les compétences criminelles concurrentes nationales et internationales et le principe ne bis in idem*, *Revue internationale de droit pénal*, vol. 73, No. 3-4, 2002, pp. 773-785; Confidential source, 28 March 2023.

²⁵ Ramdane Zerguine, *Algérie, les compétences criminelles concurrentes nationales et internationales et le principe ne bis in idem*, *Revue internationale de droit pénal*, vol. 73, No. 3-4, 2002, pp. 773-785; Confidential source, 28 March 2023.

²⁶ Ramdane Zerguine, *Algérie, les compétences criminelles concurrentes nationales et internationales et le principe ne bis in idem*, *Revue internationale de droit pénal*, vol. 73, No. 3-4, 2002, pp. 773-785; Confidential source, 28 March 2023.

3 Privacy legislation

3.1 Laws and regulations in Algeria

In Algeria, there is legislation regarding the protection of personal data.

Article 2 of Law number 18-07 of 10 June 2018 on the protection of natural persons with regard to the processing of personal data (hereinafter: Law 18-07) states that the processing of personal data, regardless of its origin or form, must be carried out with respect for human dignity, privacy and public freedoms, and it must not harm the rights of individuals, their honour or their reputation.²⁷

Article 3 of Law 18-07 defines the data controller as follows: 'a natural or legal person, public or private or any other entity which, alone or jointly with others, determines the purposes and means of the processing of personal data'.²⁸

Section 4 of the same Law states that the Law is applicable to the fully or partially automated processing of personal data, as well as to the non-automated processing of personal data contained or intended to be contained in a manually maintained file. This law is applicable to the processing of personal data by public bodies or individual persons.²⁹

In addition, the Constitution provides for the right to privacy in Article 47, which lists the protection of individuals when handling personal data as a fundamental right and further provides for the protection of correspondence and private communications.³⁰

3.2 Request for access, rectification and deletion

Articles 34 and 35 of Law 18-07 provide that every person has the right to access, rectify and delete data relating to that person.³¹

3.2.1 *Right to access*

Article 34 of Law 18-07 provides for the right of access to personal data. According to Article 34, a data subject has the right to request the following from the data controller:

- Confirmation that the personal data concerning that person have or have not been processed, the purposes of such processing, the categories of data involved in the processing and the recipients
- The communication, in an intelligible form, of the data that have been processed and any information available on the origin of the data³²

²⁷ Algeria, *Loi n° 18-07 du 10 juin 2018 relative à la protection des personnes physiques dans le traitement des données à caractère personnel*, Article 2.

²⁸ Algeria, *Loi n° 18-07 du 10 juin 2018 relative à la protection des personnes physiques dans le traitement des données à caractère personnel*, Article 3.

²⁹ Algeria, *Loi n° 18-07 du 10 juin 2018 relative à la protection des personnes physiques dans le traitement des données à caractère personnel*, Article 4.

³⁰ Algeria, *Constitution of the Republic of Algeria 2020*, 2020.

³¹ Algeria, *Loi n° 18-07 du 10 juin 2018 relative à la protection des personnes physiques dans le traitement des données à caractère personnel*, Articles 34 and 35.

³² Algeria, *Loi n° 18-07 du 10 juin 2018 relative à la protection des personnes physiques dans le traitement des données à caractère personnel*, Article 34.

3.2.2 *Right to rectification*

Article 35 of Law 18-07 addresses the right to rectification. According to the article, a data subject has the right to update, rectify, delete or block personal data whose processing does not comply with the current law. This is particularly the case for personal data that are inaccurate or incomplete or whose processing is prohibited by law. The data controller must process the rectification free of charge within 10 days from the date of the request.³³ In case of refusal or failure to reply within 10 days, the data subject may submit an application for rectification to the national authority (see Section 3.5: Data Protection Authority). This authority instructs one of its members to conduct all necessary investigations and proceed with the necessary rectifications, in the shortest possible time.³⁴

3.3 Use for other purposes

According to one source, there is no legal framework for receiving authorities to use criminal data received for the purpose of 'achieving deportation', or to use them for other purposes. According to this source, in practice, such provisions are handled according to instructions intended for internal use by the relevant authorities. These instructions are not accessible to the public.³⁵

The ACCP does include provisions addressing deportation orders (le bulletin n° 01 / Transcript 01). Under certain conditions, these deportation orders can be accessible to certain authorities (see 3.4 below).

3.4 Provision of data to other authorities in Algeria

Criminal records are kept mainly in the files of the Judicial Documentation System, which is managed by the Ministry of Justice. The rules for its management are contained in Articles 618-654 of the ACCP. The files are accessible to a variety of authorities and security services for purposes of public order and national security.³⁶

Article 625.2 ACCP addresses the determination of a deportation order (Transcript 01) and states that a deportation order is prepared by the Minister of Interior and then sent to the Central Judicial Documentation System or, in the case of the deportation of a person born in Algeria, to the Judicial Documentation System of the person's place of birth.³⁷ According to one source, following this article, it cannot be ruled out that data in a deportation order may be accessible to other government agencies under certain conditions.³⁸

3.5 Data Protection Authority

Law 18-07 entered into force on 10 June 2018. Article 22 of this law provides for the establishment of an independent administrative authority for the protection of personal data: *de Autorité Nationale de Protection des Données à Caractère*

³³ Algeria, *Loi n° 18-07 du 10 juin 2018 relative à la protection des personnes physiques dans le traitement des données à caractère personnel*, Article 35.

³⁴ Algeria, *Loi n° 18-07 du 10 juin 2018 relative à la protection des personnes physiques dans le traitement des données à caractère personnel*, Article 35.

³⁵ Confidential source, 28 March 2023.

³⁶ Confidential source, 28 March 2023.

³⁷ This article concerns deportation orders prepared by the Algerian authorities.

³⁸ Confidential source, 28 March 2023.

Personnel (ANPDP). The ANPDP was officially proposed and installed on 11 August 2022, and it is expected to start its actual operations in August 2023, as announced on its website and in accordance with Article 75 of the aforementioned Law.³⁹

It is therefore not (or not yet) possible to indicate how the authorities will respect privacy and personal data protection in practice.⁴⁰

Given that Article 47 of the Algerian Constitution does provide for the protection of individuals in the processing of personal data, a safeguard does currently exist and, in the event of a breach, individuals can take legal action.⁴¹

³⁹ Algeria, *Loi n° 18-07 du 10 juin 2018 relative à la protection des personnes physiques dans le traitement des données à caractère personnel*, Articles 22 and 75; ANPDP, *Quand et à qui s'applique la loi N°18-07 ?*, consulted on 4 July 2023 < <https://anpdp.dz/fr/quand-et-a-qui-sapplique-la-loi-n18-07/>>.

⁴⁰ Confidential source, 28 March 2023.

⁴¹ Confidential source, 1 July 2023.

4 Appendices

4.1 Sources consulted

Algeria:

- *Code de Procédure Pénale Algérien « CPPA » - Ordonnance No 66-155 du 08 juin 1966 portant Code de Procédure Pénale modifié et complété*, 8 June 1966.
- *Constitution of the Republic of Algeria 2020*, 2020.
- *Loi n° 18-07 du 10 juin 2018 relative à la protection des personnes physiques dans le traitement des données à caractère personnel*, 10 June 2018.
- *Ordonnance n° 75-58 du 26 septembre 1975 portant Code civil*, 2007.

ANPDP (website):

- *Quand et à qui s'applique la loi N°18-07 ?*, consulted on 4 July 2023
<https://anpdp.dz/fr/quand-et-a-qui-sapplique-la-loi-n18-07/>

Ramdane Zerguine:

- *Algérie, les compétences criminelles concurrentes nationales et internationales et le principe ne bis in idem*, *Revue internationale de droit pénal*, vol. 73, No. 3-4, 2002, pp. 773-785.

Rechtspraak.nl (website):

- *Wat is een transactie?*, consulted on 10 July 2023
<https://www.rechtspraak.nl/juridische-begrippen/Paginas/transactie.aspx>
- *Wat is cumulatie?*, consulted on 10 July 2023
<https://www.rechtspraak.nl/juridische-begrippen/Paginas/cumulatie.aspx>
- *Wat is kwalificatie in het strafrecht?*, consulted on 17 July 2023
<https://www.rechtspraak.nl/juridische-begrippen/Paginas/kwalificatie-in-het-strafrecht.aspx>

United Nations:

- *International Covenant on Civil and Political Rights (ICCPR)*, New York, 16-12-1966.