

## AFRICA RISK CONSULTING

### Algeria Monthly Briefing October 2017

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#### Algeria Summary 20 October 2017

Two former ministers and a retired general circulate a message in newspapers calling on citizens to reject any attempt by President **Abdelaziz Bouteflika** (1999-present) to seek a fifth term. The prime minister, **Ahmed Ouyahia**, announces the government will revise its oil and gas laws to attract further foreign direct investment (FDI) into the sector. Egypt-based engineering and telecoms company **Orascom** challenges an International Centre for the Settlement of Investment Disputes (ICSID) ruling to claim compensation over the sale of Algerian subsidiary **Djezzy** in 2010.

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#### Old guard appeals to citizens to oust Bouteflika

Two former ministers and a retired general circulated a message in newspapers in Algeria on 8 October calling on citizens to reject any attempt by President **Abdelaziz Bouteflika** (1999-present) to seek a fifth term.<sup>1</sup> Bouteflika won a controversial fourth term in 2014 and is reportedly planning for his succession as he has been in poor health since 2013. He altered the constitution in 2016 to bring back two-term limits (see *ARC Briefing Algeria February 2016*). However, recent clashes with other figures in government, including ousted prime minister **Abdelmajid Tebboune**, have led analysts to conclude that Bouteflika would rather stay for a fifth term in 2019 than have a rival succeed him.<sup>2</sup> The open letter came from **Ahmed Taleb Ibrahimi**, former foreign minister (1982-1998) and a rival candidate to Bouteflika in 1999; **Ali Yahia Abdenour**, former president of the Algerian human rights commission, the **Ligue des Droits de l'Homme d'Algérie**, from 1989 to 2005; and retired general **Rachid Benyelles**, the former head of Algeria's naval forces.<sup>3</sup> Both Ibrahimi and Abdenour are members of Bouteflika's **Front de Libération Nationale (FLN)** which has held power in Algeria since independence in 1962.<sup>4</sup> In the letter the authors criticise Bouteflika for staying in power while in poor health; since a stroke in 2013, the president has rarely appeared in public and no longer gives public addresses:

*"The head of state is heavily handicapped and clearly not in a state to lead the country... In any other democratic country such a situation would have led to the voluntary resignation of the president for the greater good of the nation, or to his constitutional dismissal."<sup>5</sup>*

Ibrahimi, Abdenour and Benyelles go further, attacking the president's inner circle and implicating his brother **Said Bouteflika** and powerful businessmen such as **Ali Haddad**, the CEO of construction company **ETRHB Haddad**:

*"Those who truly hold power [are] the family entourage of the president and a group of powerful oligarchs who are preparing an impotent old man unable of expressing himself as a candidate for his fifth presidential term."<sup>6</sup>*

The open letter ends with a call for Algerians to rally against Bouteflika:

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<sup>1</sup> Jeune Afrique, 9 Oct 2017.

<sup>2</sup> Source, political analyst, Casablanca

<sup>3</sup> Jeune Afrique, 9 Oct 2017.

<sup>4</sup> Jeune Afrique, 9 Oct 2017.

<sup>5</sup> RFI, 9 Oct 2017.

<sup>6</sup> RFI, 9 Oct 2017.

*“Set aside your cultural and linguistic differences and say in unison ‘enough!’ Create a common front against those who have stolen power for nearly 20 years.”<sup>7</sup>*

Open calls against the president and his inner circle are rare in Algeria. Coming from three senior political figures the administration could see a legitimate threat to their authority.<sup>8</sup> However, analysts in Algeria do not believe that it will be the precursor to major political change:

*“This is a symptom and not a major trigger event: the old guard within the FLN are truly locked out of power and they worry that the Bouteflika family will control Algeria for the next twenty years. I would not be surprised if the authors of this text found life very difficult from now on...the fact is they have no realistic alternative to the candidate that presidency selects, be it Bouteflika or somebody else.”<sup>9</sup>*

Bouteflika’s inner circle is under increased attack from the old guard in the FLN following their ousting of Tebboune in August (see *ARC Briefing Algeria August 2017*). Bouteflika has worked to curb the influence of the military in the running of government, but he has also limited the influence of figures associated with older FLN administrations such as that of **Chadli Bendjedid** (1979-1992). Ibrahim, Abdenour and Benyelles all served in senior positions under Bendjedid. Their attacks on the presidency are more a desire to reassert control across the FLN than genuine calls for a more open democracy. The calls do not risk any major unrest as Algeria’s population remains disengaged with the political process. However, the presidency may move against Ibrahim, Abdenour and Benyelles if they make further calls against Bouteflika.

### Government to revise oil and gas laws within 2017

The prime minister, **Ahmed Ouyahia**, announced on 1 October that the government plans to revise its oil and gas laws to attract further foreign direct investment (FDI) into the sector.<sup>10</sup> Algeria’s tough laws on domestic ownership and government control of investments have deterred oil and gas sector FDI in the past. The government is attempting to draw in FDI to finance an expansion in Algeria’s gas production to make up for low oil and gas prices. Ouyahia made the announcement at **Arzew**, close to the city of **Oran**, at a meeting of the **Algerian American Business Council**.<sup>11</sup> Ouyahia said that his government has approved a revision of the regulations to take into account the reality of comparatively low oil and gas prices for the short to medium term.<sup>12</sup> Algeria has launched five tenders for oil and gas exploration permits since 2014, all of which have failed to find a viable winning bid.<sup>13</sup> International oil and gas companies find the regulatory environment too restrictive to profit and have avoided bidding competitively as a result.<sup>14</sup>

*“Algeria is a market where the combination of bureaucracy and non-business friendly government figures means that we would have to be bidding for prime production real estate to consider it seriously.”<sup>15</sup>*

Sources at state-owned oil and gas firm **Société Nationale pour la Recherche, la Production, le Transport, la Transformation, et la Commercialisation des Hydrocarbures (Sonatrach)** said the new law would facilitate international oil and gas investment by both altering the legal framework and reducing the bureaucratic processes involved.<sup>16</sup> Sonatrach is a driving force behind the new regulatory change, and CEO **Abdelmoumen Ould Kaddour** publicly lobbied for a change in the law in

<sup>7</sup> RFI, 9 Oct 2017.

<sup>8</sup> Jeune Afrique, 9 Oct 2017.

<sup>9</sup> Source, political analyst, Casablanca

<sup>10</sup> TSA, 2 Oct 2017.

<sup>11</sup> TSA, 2 Oct 2017.

<sup>12</sup> TSA, 2 Oct 2017.

<sup>13</sup> TSA, 2 Oct 2017.

<sup>14</sup> TSA, 2 Oct 2017.

<sup>15</sup> Source, oil major, London

<sup>16</sup> Reuters, 4 Oct 2017.

September (see *ARC Briefing Algeria September 2017*). The new law will also provide tax incentives to encourage international companies to invest.<sup>17</sup> A change in taxation is likely to be the most effective mechanism to attract further investment as Algeria has a number of specialist energy taxation laws that can tax up to 25% of turnover.<sup>18</sup> The source, who reportedly was party to the discussions between Sonatrach and the energy and mines ministry, said the government aims to amend the current regulations before the end of 2017.<sup>19</sup> The new law will also encourage local investors to enter the energy sector.<sup>20</sup> Politically connected businessmen **Reda Kouninef** and Ali Haddad, both of whom are close to President Bouteflika, have reportedly expressed interest in entering the oil and gas market.<sup>21</sup> However, sources in Algeria believe that the reforms will face opposition from nationalist elements:

*“You have to think about why Sonatrach is leaking this to the media; they are looking to build support for this before the more nationalist elements in government have a chance to oppose it.”<sup>22</sup>*

Ouyahia will have to tread a fine line between Ould Kaddour pushing for greater liberalisation and figures within the FLN and in government who remain sceptical of business. It is highly unlikely that he will revise the regulations that require all businesses to be 51% owned by an Algerian entity. This is a major sticking point between international business and the government. However it is popular both within the Algerian political establishment and more broadly amongst Algerians with nationalist sentiment.<sup>23</sup> However, the move towards greater liberalisation will be welcomed by oil and gas companies as well as those in other sectors who hope it gives precedence for wider reforms.

### Orascom challenges ICSID ruling on the sale of Djazzy

**Egypt**-based engineering and telecoms company **Orascom** on 17 October challenged an **International Centre for the Settlement of Investment Disputes (ICSID)** ruling that it could not claim compensation from the Algerian government over a subsidiary sale.<sup>24</sup> The Orascom dispute is Algeria’s longest running dispute between the government and a private enterprise. Algerian analysts believe that it is a major factor behind Algeria’s stringent local ownership requirements and caution towards international investment.<sup>25</sup> Orascom claims the Algerian government caused it to lose \$5 billion by forcing it to sell telecoms subsidiary **Djazzy** in 2010.<sup>26</sup> The ICSID ruled in June that Orascom could not claim damages against the Algerian government as it had no grounds to do so under the terms of Algerian investment law at that time.<sup>27</sup> It also ruled that Orascom was liable for legal costs incurred by the Algerian government.<sup>28</sup> The ICSID ruled again on 8 October that Orascom was unable to appeal the decision.<sup>29</sup> However, Orascom CEO **Naguib Sawiris** filed for an annulment of the ICSID ruling as a way of restarting the appeal process.<sup>30</sup> The ICSID is a **United States (US)**-based arbitration court that is part of the **World Bank Group**.<sup>31</sup> Sources in Algeria consider the dispute over the sale of Djazzy to be a driver of the arguably hostile stance the government takes towards international businesses:

<sup>17</sup> Reuters, 4 Oct 2017.

<sup>18</sup> Huffpost Maghreb, 2 Oct 2017.

<sup>19</sup> Reuters, 4 Oct 2017.

<sup>20</sup> Reuters, 4 Oct 2017.

<sup>21</sup> Reuters, 4 Oct 2017.

<sup>22</sup> Source, energy consultant, Algiers

<sup>23</sup> Source, business consultant, Algiers

<sup>24</sup> Developing Telecoms, 17 Oct 2017.

<sup>25</sup> Source, Algerian political analyst, Algiers

<sup>26</sup> Liberté, 8 Oct 2017.

<sup>27</sup> Liberté, 8 Oct 2017.

<sup>28</sup> Liberté, 8 Oct 2017.

<sup>29</sup> Liberté, 8 Oct 2017.

<sup>30</sup> Developing Telecoms, 17 Oct 2017.

<sup>31</sup> www.icsid.worldbank.org

*“If you want to understand the bad relationship between the Algerian government and companies, then look at how the government handled the Djezzy sale... Orascom were becoming too powerful in the eyes of the government and outcompeting the state-owned **Algerie Telecom**. Depending on who you ask, either the government then forced Orascom to sell and later forced **Vimpelcom** to sell, or the government used and altered its regulatory environment to leverage increased value for working in Algeria.”<sup>32</sup>*

Orascom argues that the Algerian government took unlawful and arbitrary actions against the company, including imposing a \$1.3 billion fine in 2008, in order to force a sale of the company.<sup>33</sup> Orascom sold Djezzy and other parts of its telecoms business for \$6.6 billion to **Russia**-based Vimpelcom (now known at **Veon**) in 2010.<sup>34</sup> Orascom claims it made a loss of \$5 billion on the sale and has been seeking compensation from the government for the past six years.<sup>35</sup> Vimpelcom also had a three-year dispute with the government, which attempted to nationalise Djezzy in 2011.<sup>36</sup> Vimpelcom sold 51% of the company to the Algerian government for \$2.64 billion in 2014.<sup>37</sup>

The ISCID rulings against Orascom demonstrate that Algeria’s tough regulations for companies do withstand international arbitration. The actions of the Algerian government against Orascom are aggressive, yet sit within the framework of the agreements and regulations the government created. The ruling shows the complexities of Algeria as a marketplace. It appears unlikely that the ISCID will annul their second appeal ruling to allow Orascom to appeal again.

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<sup>32</sup> Source, business consultant, Algiers

<sup>33</sup> Developing Telecoms, 17 Oct 2017.

<sup>34</sup> Developing Telecoms, 17 Oct 2017.

<sup>35</sup> Developing Telecoms, 17 Oct 2017.

<sup>36</sup> Reuters, 18 April 2014.

<sup>37</sup> Reuters, 18 April 2014.

## Planner

April 2019: Scheduled presidential elections

23 Nov 2017 Algerian local elections

## Chronology

17 Oct 2017 **Washington DC (United States)** *Developing Telecoms*. **Egypt**-based engineering and telecoms company **Orascom** challenges an **International Centre for the Settlement of Investment Disputes (ICSID)** ruling to claim \$5 billion in compensation from Algeria;

11 Oct 2017 **Algiers (Algeria)** *TSA*. President **Abdelaziz Bouteflika** meets with Russian prime minister **Dmitry Medvedev**;

9 Oct 2017 **Algiers (Algeria)**, *Liberté*. Former military and government officials **Ahmed Taleb Ibrahimi**, **Ali Yahia Abdenour**, **Rachid Benyelles** release an open letter calling on Algerians to reject a fourth term run by President **Abdelaziz Bouteflika**;

4 Oct 2017 **Algiers (Algeria)** *APS*. The council of ministers approves its 2018 budget, positing a 0.2% decrease in spending compared to 2017, at 4.58 billion dinars (\$40.2 billion);

1 Oct 2017 **Oran (Algeria)** *TSA*. The prime minister, **Ahmed Ouyahia**, announces government plans to revise its oil and gas laws to attract further foreign direct investment (FDI);

### About Africa Risk Consulting:

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