



FREEDOM OF SPEECH AND INFORMATION IN ALGERIA: THE LEGALITY AND THE REALITY

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INTRODUCTION

Just like political pluralism and judicial independence, media pluralism and press freedom are the pillars of any democratic system. Media pluralism and freedom of expression are prerequisites for any democratic transition. The role of media is to inform the public and illuminate the facts that lie at the heart of political debate. The principles of tolerance, peaceful transfer of power and popular sovereignty are all contingent on political and media pluralism.

The introduction of Media Law no 90-07 dated April 3, 1990, together with two government memos (March 19, 1990; April 4, 1990) on the creation of private newspapers, made press freedom in Algeria a reality. These laws applied to everyone – the authorities, media professionals, and the public at large. It was the end of media monopoly. Readers can now choose from a wide range of newspapers. The new reality of media pluralism became a mirror of the country's political pluralism.

The 1990 laws, however, entered into force in dramatic circumstances, namely the death of more than 100 journalists, murdered by terrorist Islamist groups. The Maison de la Presse (House of the Press) in Algiers, host to nearly all of the independent newspapers, was also targeted with a car bomb, which caused many casualties. Despite the high price already paid by journalists, they also faced significant legal pressure. Many were tried and jailed for libel, in accordance with the penal code and Media Law 90-07, also known as the “Penal Code Bis”.

In early 2011, a wave of panic swept through the Algerian regime as the events of the Arab Spring shook the region and led to the collapse of “brotherly” regimes, with media environments very similar to Algeria's. In response to the upheaval in the Arab region, Algerian leaders felt compelled to push through rapid political reforms to mitigate the consequences of rising national protests.

In this context, President Abdelaziz Bouteflika delivered a speech to the nation on April 14, 2011, from the city of Setif. The famous address was considered a genuine democratic turning point. The president announced the government's willingness to engage in “political reforms to strengthen the democratic process”. He implied that he was likely to resign from office, and was ready to urge the whole “historical legitimacy” generation to do the same. Specifically, he said that the “new parliament would be entrusted with the mission to finalize the adaptation of the national judiciary and regulatory system, in accordance with the political reforms, giving priority to constitutional revision. This would enable the country to enter a new era for promoting good governance, modernizing institutions and enlarging the scope of rights and liberties, in order to embrace the evolution of society and fulfil the requirements of development, and best serve citizens' interests¹”.

Accordingly, after the state of emergency was lifted in February 2011, a number of laws on freedoms of speech, assembly and demonstration were passed by parliament.

In 2016, a new constitution was voted in, and several constitutional principles were introduced and/or modified. However, this “constitutional revolution”, as it has been described, has not as yet been followed by any implementing decrees.

The principle of media pluralism, supported by a number of legislative and constitutional texts, as well as various international treaties signed by Algeria, should not conceal the existing judiciary, political and administrative obstacles. In the 2017 Reporters Without Borders' report, Algeria ranks 134 in terms of press freedom. According to the report, “Media freedom has seen a sharp decline in Algeria. Many subjects, including corruption, the assets

¹ <http://www.algerie-focus.com/2012/05/discours-integral-de-bouteflika-a-setif/>

of the country's leaders, and the president's health, are still off limits and the economic throttling of independent media outlets continues².

In light of this evaluation, it is useful to examine existing laws on press and media freedom (section 1.0) and then, in the second part, assess the implementation of such texts in judicial, political and administrative processes (section 2.0).

² <https://rsf.org/fr/algerie>

1.0 CRITICAL EXAMINATION OF EXISTING JUDICIAL MECHANISMS

1.1 LAWS DESCRIBED AS PART OF THE POLITICAL REFORMS

Before embarking on any critical analysis of these laws, it is important to note that these bills were passed without any consultation or public debate, a procedural failing criticised by the chairperson of the National Consultative Committee on the Promotion and Protection of Human Rights in a statement released on December 5, 2011.

The central text on freedom of speech and media is organic law no 12-05, dated January 12, 2012.

This law, which replaces the 1990 Media Law no 90-07, provides for partial decriminalisation of press violations (replacing imprisonment with fines) and the liberalisation of the audiovisual sector, which had long been under state monopoly. However, closer analysis of the new text reveals regressive trends, limiting press and media freedom in contravention of the international conventions signed by Algeria. This is mainly due to the use of vague and imprecise terminology, which broadens executive prerogatives and impose additional restrictions when it comes to dealing or collaborating with foreign media. It also replaces the declarative system with a pre-authorisation process.

In accordance with the new law, information is no longer a right for all citizens, who are entitled to obtain complete and objective information, as provided for by the previous media law. National law no longer protects the right and freedom to seek, receive and impart information and ideas of all kinds, as stipulated by Article 19 of the International Covenant on Civil and Political Rights (ICCPR), signed by Algeria on September 12, 1989. In the new text, information is defined as an activity.

This change in the definition is an indicator of the legislator's will to limit freedom of speech and media. Moreover, the article describes information as an activity to be practiced freely – but, crucially, contained by respect for 12 principles. These principles are mentioned in very broad terms, and are incompatible with paragraph 3 of Article 19 of the ICCPR; namely “national identity and cultural values of society”, “security and defence requirements”, “missions and obligations of national public service” and “economic interests of the country”.

Due to their vague and imprecise nature, these limiting principles are likely to encourage censorship or self-censorship, not only by journalists, who publish the information, by also by citizens who share “news, facts, messages, opinions, ideas and knowledge, through written, audiovisual or electronic platforms open to the public or to specific audiences³.”

In addition to the above principles, which apply to all media, professional journalists are also bound by 11 other principles set forth in article 92, in similarly vague and as imprecise terms. These open the door for subjective and dangerous interpretations as far as freedom of speech is concerned; namely “respecting the state's attributes and symbols”, “refraining from undermining national history”, “refraining from disseminating or publishing immoral images or statements, or hurting citizens' sensitivity”.

The fundamental rights of journalists to seek and impart information and ideas of all kinds, which in turn help citizens realise their right to receive information, are thus limited by a legal framework constructed on deliberately imprecise and confusing terminology.

³ Article 3 of organic law 12-06 on information

Subsequently, and to help consolidate this restrictive trend, the text upholds the status of journalists, providing for their right to have a written employment contract, a life insurance subscribed by the employer should they undertake jobs in dangerous locations, and the creation of a journalist national ID card.

As far as print media is concerned, the new text solemnly endorses the approval system, replacing the declarative system. Thus, any new periodic publication is subject to a prior declaration by the managing director to the Regulatory Authority for Print Media (instead of the public prosecutor in the previous law) against a receipt delivered immediately. After 60 days (instead of 30 in the previous law), an approval is issued by the Regulatory Authority. In the event of a rejection, the Authority must provide the reasons for its decision, which may be appealed before the competent authority.

The printing of the first issue of the publication is contingent on the presentation of the approval to the printing house.

A series of other conditions and formalities create a more burdensome approval process for new publications. For example:

- The managing director of any periodic publication must have at least 10 years of experience in the field of general news media. For scientific, technical or technological publications, five years of experience are required in the area of specialisation.
- Direct or indirect material support by a foreign party is forbidden and violators will incur a fine of Da100 000 to Da300 000, plus the temporary or final suspension of the publication. Any publication or media organisation director who receives funds or accepts benefits from a public or private foreign organisation will incur a fine of Da100 000 to Da400 000.
- The managing director of any periodic publication must be Algerian, which excludes publications owned by foreign publishing corporations from the approval procedure. The printing of such publications in Algeria is subject to authorisation by the Ministry of Communication, while their import is subject to prior authorisation by the Regulatory Authority of Print Media.
- The Regulatory Authority of Print Media, created in accordance with the new law, is composed of 14 members, three of whom are appointed by the President of the Republic, including the Chairperson, whose vote counts double. Two non-parliamentary members are appointed by the National Assembly Speaker, and two non-parliamentary members by the Popular Assembly Speaker, while seven members are elected by absolute majority among professional journalists having at least 15 years of experience in the field. The said Authority has extensive prerogatives, which might arbitrarily hinder the freedom of speech and opinion. It “promotes information plurality”, “monitors the quality of media messages, promotes all aspects of national culture”, and “issues approvals”.

As far as audiovisual media is concerned, the text endorses the mission of public service entrusted to audiovisual activity and opens the field to Algerian corporations. This is however limited by the obligation to obtain an authorisation granted by decree to create any thematic audiovisual organisation, operate a TV or Radio cable broadcast service or use radio frequencies.

Moreover, the text creates an unincorporated, financially independent audiovisual regulatory authority. The mission, attributes, composition and operation of the said authority are detailed in Audiovisual Law no 14-04, dated February 24, 2014.

As a reminder, the law states that audiovisual activities may only be exercised by duly authorised Algerian institutions and corporations, whose shareholders and capital are exclusively and totally Algerian. In accordance with this law, the authorisation process is managed by the Audiovisual Regulatory Authority, through an application system and public auditioning of accepted applicants, after payment of applicable fees.

The operation of a radio or TV service is subject to the respect of contractual specifications, which include around 30 terms and conditions, which are described, once again, in very broad terms, such as: “the obligation to conform to the national religious reference”, “respect for the principles and values of society”, “respect for national values and state symbols as described in the constitution”, “respect for requirements related to public morality and public order”, etc. Failure to comply with these terms and conditions will result in a formal notice, followed by a financial penalty ranging between 2% and 5% of the gross turnover of the latest fiscal year, calculated on a 12-month basis.

The newly created Audiovisual Regulatory Authority is composed of nine members. Five members are appointed by the President of the Republic, including the Authority Chairperson, who has two votes. Two others are appointed by the National Assembly Speaker, and two by the Popular Assembly Speaker. The Authority has a broad mandate in terms of authorisation, control and sanction. Such attributions are likely to impose arbitrary restrictions on freedoms of speech and belief.

Recently, a bid to authorise seven private thematic TV stations was launched in accordance with a decree dated July 31, 2017, but subsequently withdrawn for “falling short.”

As far as online media is concerned, Organic Law no 12-06 defines online media activity, both written and audiovisual, as the production of original content of general interest, regularly updated, including news information treated in a journalistic manner. Such provisions are very broad and may be interpreted in a restrictive way, especially that the said law applies the same requirements mentioned above to both activities.

The new laws show strong evidence of political influence, passed under the pretext of reform. These include the electoral law, the empowering of women to give them better access to elected assemblies, the political parties law, media law and the associations law (Organic Law no 12-06, dated January 12, 2012). The content of these various laws was no surprise; as with previous texts, they mark a clear regression in terms of respect for human rights.

The new law establishes a prior approval system for the creation of associations. An application may be rejected if it is deemed that the goals or objectives of the association are “in contradiction with national principles and values, public order, good morality, rules and legal provisions”. Such criteria are extremely vague and imprecise, and allow administrative authorities to block the creation of a range of associations.

The new law prohibits associations from receiving donations, subsidies or any other form of contribution from any “foreign legation or non-governmental organisation”. Funding of associations is subject to prior approval by competent authorities (article 30), and the creation of foreign associations is virtually impossible.

As far as freedom of assembly is concerned, the applicable law is no 91-19, dated December 2, 1991, which modifies and completes law no 89-28, dated December 31, 1989, on public meetings and demonstrations. This came back into force after the state of emergency was lifted in February 2011.

Under no 91-19, meetings are subject to a prior notice to the Wali (appointed governor), at least three days before the event. Public demonstrations are also subject to a prior approval request, to be sent to the Wali at least eight days before the date of the demonstration. Any unauthorised demonstration is considered a riot, in which case organisers and participants may be jailed for three months and/or fined Da3000 to Da15 000. The same sanction

is applicable to meetings and demonstrations considered in violation of national principles or which may undermine the symbols of the November 1 revolution, public order or public morality.

Furthermore, a decree issued back in 2001 bans any assembly, demonstration or march in the capital, Algiers. This decree remains in force, despite the lifting of the state of emergency.

1.2 FREEDOM OF SPEECH AND MEDIA IN THE 2016 CONSTITUTION

Amid a general feeling of disappointment in the wake of the political reform laws, and in order to boost its image abroad, damaged by a fourth mandate for a gravely sick and physically diminished president, the Algerian regime launched a constitutional reform project. The process – which took place in the absence of any public consultation – resulted in the promulgation and the adoption by both houses of parliament, in a joint meeting, of law no 16-01, dated March 6, 2016 on constitutional changes.

The new text introduced amendments to two-thirds of the previous constitution and added new articles, three of which were dedicated to freedom of speech and media.

Thus, article 48 states that freedom of speech, association and meeting is guaranteed for citizens.

Article 50 announces two very interesting principles, according to which “freedom of print, audiovisual and online media is guaranteed and shall not be restricted by any form of prior censorship”, and “press offences cannot be sanctioned by an imprisonment sentence”.

These principles partially – which decriminalise press offences and liberalize audiovisual media and which existed in the media law- have been constitutionalized.

Article 51 introduces a new right, namely the freedom to obtain information, documents and statistics, and the freedom of their circulation.

Before tackling the implementation of both principles and their translation into legislative and executive texts, it should be pointed out that their scope is limited by the constitution itself:

- As far as freedom of the press is concerned, paragraphs 2 and 3 of article 50 clearly warn that press freedom “cannot be used to undermine the dignity, liberty and rights of others, and that the free dissemination of information, ideas, images and opinions is guaranteed within the framework of the law and the respect of religious, moral and cultural values and principles of the nation”.

This is a familiar pattern: giving the right with one hand, and limiting it with the other, by including requirements that violate international standards, in very vague terms likely to be interpreted subjectively and in a restrictive way. The legislator also refers to statutory law to define the modalities of application of the same right, which obviously limits its scope most of the time.

What are the cultural, moral and religious values and principles of the nation? Where can one find precise definitions of these ambiguous notions, under which all possible and imaginary restrictions can be introduced in order to limit freedom of belief and news circulation?

The answer is nowhere.

As shown above, the law that is intended to bring precision to the constitutional text and the modalities of its implementation draws on broad notions, granting larger powers to executive and judiciary branches in order to limit freedoms of speech and press.

- Regarding access to information, article 51 of the constitution stipulates that this is a guaranteed right for all citizens. However, it also warns that “the exercise of this right should not undermine private life, others’ rights, legitimate corporate interests, or national security requirements. The law shall define the modalities of exercise of this right”.
- Reporters without Borders underlines that “national security provisions or the nation’s moral values is extremely disturbing because of the lack of precision in these restrictions. International law does not recognise “legitimate corporate interests” as grounds for restricting freedom of expression. “National security requirements” are legitimate, but must be explicitly provided for by law and must be necessary and proportionate to the legitimate goal pursued”.
- As far as the partial decriminalisation of press offences is concerned: decriminalisation consists of not treating an event as a criminal offence. Press offences are all violations perpetrated through print media, audiovisual media, or via information networks. It is a crime of opinion using media. That is to say that every time a media platform is used for the expression of an offence, the latter becomes a press offence as long as the matter is related to a crime of opinion.
- It is clear that the sanctions under this law apply not only to media professionals, but also to anyone who uses a media platform to violate the law.

However, there is no definition of a press offence in Algerian law (although it is mentioned in the constitution). The “information code”, the legal framework that is supposed to give a definition of a press offence, is effectively silent on the issue. As a result of this legal vacuum, journalists have no specific criminal status and are subject to common law.

According to organic law on media, “civil and public action lawsuits in matters related to print, audiovisual or online media are prescribed after six months from the date of occurrence”. In practice, however, as demonstrated below, courts have no consideration for this constitutional principle in the absence of any definition of a press offence.

Press offences are provided for and punished by the criminal code provisions, as modified and completed by law no 06-23, dated November 20, 2006. In addition to libel and insult, a contempt offence has been introduced, with new criminal liability for both author and the publishing platform. Three new provisions govern media offences: contempt and violence against a civil servant, defamation, and consideration for private life and disclosure. Prison sentences range from two months to five years, and fines run from Da1000 to Da500 000.

In practice, tribunals rarely refer to media law or constitutional provisions, preferring to resort to the criminal code in cases involving the press.

Since the day the new constitution was adopted, no legal text or regulation has been modified to ensure compliance with the new constitutional provisions. Other areas related to the media are not covered by any legislation. This has given rise to a legal vacuum that enables the authorities to pursue a policy of muzzling the few remaining independent journalists and outlets.

This includes:

- Organic media law has not been modified to comply with the new constitutional principles, namely when it comes to: (i) the definition of press offences and the non-application of criminal code provisions to journalistic content, whatever media is used; (ii) the limitation of restrictions to press freedom to those

mentioned in the constitution, giving a precise definition of each restriction; and (iii) the return to the declarative system for any new periodic publication.

- Access to information law, as a right recognised by the constitution, has not been promulgated, despite promises by several officials over the last four years. This hinders journalists' access to information and data sources, which is fundamental to citizens' access to information.
- The absence of a law on advertising gives full discretion to the national agency for publishing and advertising, a state-funded organisation, in terms of distributing public sector ads among the media. This situation precludes any possibility for ensuring the principles of equity and fair distribution of public ads, in order to prevent favouritism that would benefit pro-government newspapers and sanction critical voices.
- The absence of regulatory texts has prevented the creation of the Media Regulatory Authority, and the establishment of a national press ID card. This has also led to total freeze of the Audiovisual Regulatory Authority, created in June 2016, which still has no legal status, funding or adequate means for operation, as recognised by the Authority Chairman himself.
- Neither the organic law on associations, nor the law on public meetings and demonstrations has been modified, in order to ensure the constitutional freedoms of assembly and association.

2.0 ADMINISTRATIVE AND JUDICIARY PRACTICE

In addition to the shortcomings of the texts pertaining to freedoms of speech and media, as far as international standards are concerned, there is also a huge gap between texts and practice. This is despite the fact that Algeria has signed nearly all relevant international conventions.

The best illustration of this is the long standing administrative and judiciary hurdles facing independent media organisations, perpetrated by the new constitution and political reform laws. Media outlets continue to play the role of a medium of communication between the state and the citizens. In this context, private print media, created through the democratic opening up during the 1990s, has always been a point of reference when it comes to assessing freedoms of expression and media in Algeria.

2.1 POLITICAL AND ADMINISTRATIVE PRESSURE AND ATTACKS AGAINST MEDIA ORGANISATIONS

Print and audiovisual media organisations are regularly subject to pressure and/or attacks, aimed at maintaining a climate of tension and fear to encourage self-censorship and show allegiance to the state.

These attacks have sometimes been closer to intimidation and verbal threat campaigns, such as the one led by former Prime Minister Abdelmalek Sellal and his Information Minister Hamid Grine. This campaign, labelled “Lack of professionalism and non-respect of ethics”, targeted a portion of the media critical of regime figures. Examples include:

- The sudden interruption of the TV programme “El Djazairia Weekend”, after the discussion of the property assets of the Prime Minister’s daughter in Paris. The following day, the programme director, Karim Kardache, was summoned by the Audiovisual Regulatory Authority and received a verbal warning for “sarcasm and mockery against state symbols, in violation of professional ethics”.
- The revocation of the accreditation of the Al-Sharq Al-Awast correspondent in Algiers, Boualem Goumrassa, because he was critical towards the President and the Communication Minister on a foreign TV programme. This was considered a violation of the non-existent Code of Ethics for foreign correspondents.

Furthermore, the state has exercised significant financial and economic pressure on media organisations considered hostile, in various ways:

- In the absence a law on advertising, the national agency for publishing and advertising has absolute control over the distribution and repartition of public ads. This repartition is not governed by any clear criteria, but responds to political instructions, which tend to favour publications “close to the government”. Advertising revenues are also used to boost small publications reliant on public ads, in order to counter the influence of critical newspapers, as part of a game of manipulation which often involves journalists engaged in media campaigns funded by public advertising money. Examples of such campaigns are those which have been launched by some websites (“1, 2, 3 viva l’Algérie” and “Radio Trottoir”) against the editor of “Algérie Focus”, who published an article on the allocation of a staff villa to the son of the Minister of Housing and Urban Planning.

The authorities followed a similar process when they carried out abusive tax controls. Public printing houses also used the significant payments owed by newspapers to pressurize them, including via

blackmail. El Khabar and El Watan newspapers had to engage in very costly tax adjustments due to a series of tax controls. El Fajr had to suspend publication for almost a month because of an administrative decision by a public printing house regarding non-payment of an instalment.

In this regard, no means has been spared. The executive director of a private advertising company talked about a meeting with the Communication Minister, with other advertisers – including foreign ones. During this meeting, the Minister requested that some newspapers be discarded when purchasing ad space, otherwise advertising companies would face administrative difficulties or risk being excluded from public bids. In 2015, “Tout sur l’Algérie” complained that it was facing a ferocious campaign by the Trade Minister, who asked advertisers not to buy any ad space from the website.

This situation has created serious financial problems for more than 26 daily newspapers and 34 weekly publications, all of which have been forced to close over the last three years, as confirmed on October 9, 2017 by the Communication Minister and former Executive Director of the National Agency for Publishing and Advertising, Djamel Kaouane. On October 21, 2017, he however stated: “the law on advertising is not on the agenda”.

- Regarding audiovisual media, after the field was opened to private companies in 2012 and the media organic law was promulgated, some 50 TV channels have been launched. However, all of them are operating in a legal “grey zone”, as they are based abroad and broadcast via foreign satellite operators, such as Nilesat and Hotbird. Only five channels have managed to obtain licenses to open offices in Algeria - in April 2013 - but their licenses have not been renewed since.

This lack of clarity renders the channels entirely dependent on the authorities and deprives them from their right to appeal, in the absence of any clear legislation. In fact, in 2015, El Watan TV was closed manu militari because of a statement made by a former terrorist emir, who was himself never questioned. In 2016, the satirical programmes “Djornane el Gosto” and “Ki Hna Ki Ennass”, aired on El Djazairia TV and KBC, were taken off air by the National Gendarmerie, which expelled the crews and sealed the studios, ostensibly due to lack of authorisation. In March 2014, authorities simply shut down Atlas TV, because the private channel covered opposition protests against the re-election of President Bouteflika.

- Regarding online media, to which the media law dedicates a whole chapter, the absence of specific legislation creates a legal vacuum when it comes to the nature of the activity, the form of activities for which online media must register, their status and funding. On October 15, 2017, online media editors (from the 10 most important online media organisations in Algeria) issued a joint statement to condemn the blocking of the website “Tout Sur l’Algérie” (TSA), considered “an act of censorship undermining fundamental freedoms related to speech, press and business”. In the statement, they regret the absence of a legal framework for online media, which creates a “judicial risk for our media organisations, which are not recognised by authorities, as well as for our journalists, who don’t have a press card. This prevents their economic development and makes it impossible to develop Algerian online content”.
- As for foreign media, it is purely a case of censorship. Broadcast bans, accreditation withdrawal and visa refusal are amongst the most common practices use to restrict foreign media.

2.2 INSTRUMENTATION OF JUSTICE

In addition to the fact that the Algerian constitution clearly states that press offences cannot be punished by prison sentences, this principle – as demonstrated above - is further supported by media law provisions, which remove all prison sanctions against journalists.

However, the situation is unfortunately different in judicial practice, as courts prefer to refer to criminal law in order to jail journalists, as well as regular citizens, for exercising their right to free speech and opinion.

A number of lawsuits against journalists and citizens for offences linked to the right to information, namely libel, contempt and insult, have been filed:

- Mehdi Benaissa, Director of KBC TV, owned by Al-Khabar Arabic media group, and Ryad Hartouf, Production Manager for “Nass Stah” program, were both arrested on June 24, 2016, for “false statements” on shooting authorisation for the program. Mounia Nedjai, a Ministry of Culture staffer, was also indicted for “complicity” in abuse of office. The authorities arrested the KBC Director for shooting “Ki Hna Ki Nass” and “Nas Stah” in a studio that had been closed by the authorities, pursuant to the shutdown of Atlas TV in 2014. The same studio was used by another TV station without any problem. The Algiers Tribunal sentenced the first two to six months in prison, and the latter to a one-year suspended jail term.
- They were charged under article 223 of the criminal law, relating to false statements for obtaining administrative documents, and articles 33 and 42 of law no 06-01 on corruption.
- In July 2016, independent journalist Mohamed Tamalt was sentenced to two years in prison and a Da200 000 fine for contempt of the President and the public institutions, due to posts on his Facebook page and blog on the corruption and nepotism of senior government and military officials. He was indicted on the basis of criminal law articles 144, 144 bis and 146 on (i) contempt with the intention to undermine the honour and respect due to a magistrate, civil servant, public officer, commander or agent of authority, through words, threatening gestures, shipping or delivery of an object, written document, or undisclosed drawing; (ii) offending the President of the Republic, Parliament or one of its two chambers, jurisdictions, national popular army or public institution, through outrageous, insulting or defamatory statements, be it in written, drawing or statement, through any image, electronic device, computer or information media.

The sentence was confirmed by the court of appeal in a trial during which Mohamed Tamalt accused his prison guards of beating him. He began a hunger strike at the end of June 2016, and died in hospital in December, in unclear circumstances. Official explanations for his death were rejected by his family.

- Journalist and human rights militant Hassan Bouras was sued and sentenced to one year in jail for complicity in contempt of agents of authority and a constituted body, after a private TV channel aired a video in which he condemned judges and police corruption in the city of El Bayadah.
- He was indicted for contempt of judges and agents under criminal law articles 144 and 146, but also for misuse of a regulated professional activity, under criminal law article 243, for filming an interview aired on a private TV channel without authorisation. The three interviewees were also sentenced to the same jail term.
- Community activist Slimane Bouhafs was sued and sentenced to five years in prison on August 7, 2016. The sentence was reduced to three years on appeal. He was accused of insulting the prophet and denigrating the principles and precepts of Islam, because of posts he shared on Facebook.

- He was condemned under criminal law article 144 bis, for insulting the prophet (peace be upon him) and god’s messengers, and denigrating the precepts and doctrines of Islam in a written document, drawing, statement or any other medium.
- Computer programmer Youcef Dada was indicted on June 3, 2014, for “publishing photos and videos undermining national interest” and “contempt of constituted body”, for filming three policemen in blatant theft in the commune of El Guerrara, in Ghardaia, and sharing the video on Facebook. The police officers took advantage of the chaos in the region during the events witnessed by the southern Wilaya (governorate). The same video was later aired by a private TV channel close to the regime, and there was no lawsuit.
- In November 2015, caricaturist Tahar Djehiche was sentenced to six months in jail and fined Da500 000 for “offending the President of the Republic” and “encouraging a rally”, after he shared on social media a drawing of the Algerian President Abdelaziz Bouteflika in an hourglass, almost covered by the pouring sand. The idea of the drawing was to draw attention to environmental issues related to the exploitation of shale gas in Algeria.
- Said Chitour, a fixer who collaborated with several international media organisations, including the BBC and the Washington Post, was arrested on June 5 2017, at the Algiers international airport and transferred to El Harrach prison. He was accused of delivering confidential documents to foreign diplomats and could face a life sentence for gathering intelligence, objects, documents or processes which may harm national defense or the economy, in accordance with criminal law article 65.

He is still awaiting trial and his mother warned, in a letter to the President of the Republic, that his health had seriously deteriorated.

In addition to the numerous trials above, which are only examples to illustrate a wider pattern, the judicial system has been instrumental in silencing independent and critical media, considered hostile by authorities.

On July 15, 2016, the Algiers’ tribunal cancelled the sale by El Khabar group – in a transaction carried out before a notary - of 90% of its shares to Ness Prod, a subsidiary company of Cevital, owned by Algerian businessman Issad Rebrab, after the Communication Ministry filed a plea on the basis of the media organic law anti-concentration articles.

Regardless of the fact that the Ministry is not entitled to file such a plea (an exclusive prerogative of the Print Media Regulatory Authority – not yet inaugurated), and of the issue around direct or indirect ownership of the news publications concerned, the action of the Communication Ministry is problematic in terms of equality before the law. In fact, several businesspersons close to the regime hold shares in a number of media organisations, with no action being filed against them based on the applicable media law.

The political opposition has provided little support in response to these attacks and the systematic pressure applied by the authorities. This relative inaction is based on an understanding that in the Algerian political system, organized and structured opposition is conditioned by the evolution, blockage, advances and setbacks of the regime.

3.0 CONCLUSIONS AND RECOMMENDATIONS

The political reforms launched by Algeria are undeniably important timely, but the legislation is undermined by a series of loopholes and shortcomings, which seriously impinge on freedom of speech and freedom of the press. Ongoing negative practices further jeopardise this right.

In order to uphold the right to freedom of speech and freedom of press, and to strengthen the foundations of democracy in Algeria, in a constructive spirit the following measures are recommended:

TO ALGERIAN AUTHORITIES

- Guarantee the freedoms of speech, belief and press, namely by upholding journalists' independence and ensuring access of all citizens to media;
- Update Algerian legislation to comply with the International Covenant on Civil and Political Rights, namely article 19;
- Revise the 2012 media law, namely certain provisions, to comply with Algeria's international obligations;
- Revise the 2014 audiovisual law to enable private providers to cover political topics without fearing censorship, in addition to reviewing the nomination process of members of the Audiovisual Regulatory Authority, to ensure its independence, in particular when it comes to issuing radio and TV licenses;
- Put an end to intimidation and other forms of pressure in dealing with journalists in order to end the practice of self-censorship;
- Cease all forms of restriction to the right to be informed which may constitute state censorship;
- End state monopoly on advertising and delegate the management of the sector to an independent authority operating in accordance with transparent and clear criteria;
- Ensure the independence of the Print Media Regulatory Authority;
- Pass a law on specific mechanisms for access to public information;
- Facilitate the processing and issuance of visas and accreditations for foreign reporters;
- Allow the importation and distribution of foreign media without prior authorisation by authorities;
- Repeal criminal code provisions on press offences and libel;

TO JUDGES

- Stop referring to criminal law and end the use of arbitrary detention and abusive judiciary procedures to curb and criminalise press freedom and independent journalism.

TO THE AUDIOVISUAL REGULATORY AUTHORITY

- Implement the principles of equity, pluralism, diversity, transparency in the licensing process and radio frequencies approval in order to ensure public access to independent media;
- Respect and promote the plurality of opinions in public media, which should be open to opposition parties;

- Ensure greater transparency in media ownership to avoid concentration and conflicts of interest.

TO THE INTERNATIONAL COMMUNITY

- Urge Algerian authorities to end repression and censorship of professional and non-professional journalists, in particular as those working for or with online media;
- Support civil society organisations advocating for press freedom in the country, in order to promote the existence and development of free and independent media, including associative media;
- Urge Algeria to comply with the recommendations included in the Universal Periodic Review on media freedom.