



ASSESSMENT OF MEDIA LEGISLATION IN ALGERIA

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In general the new Algerian media legislation can be viewed as a positive development. Every effort should be made to encourage changes that would bring it in line with international standards.

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I. EXECUTIVE SUMMARY

This report looks at the development of an independent media in Algeria since 2011, and at how legislation of this media has been shaped by various opportunities and limitations following the lifting of the 19-year state of emergency.



In September 2011, Algeria ended its de facto state monopoly over radio and television. Recent legislation has allowed for several TV channels to become privately owned, although the majority of these broadcast from abroad. The press enjoys more freedom than radio and TV but is also subject to several legal constraints.

New legislation for the media from 2012 onwards represents a step towards meeting international standards on freedom of the press and market deregulation, but some severe limitations have been maintained and, in certain cases, reinforced.

The instituting of three new media regulatory authorities (the Press Regulatory Authority, the Audio-visual Regulatory Authority and the Press Commission) should also be considered as progress. However, the nomination of their members is government controlled, casting doubt on the possibility of independence.

There is no institutionalised censorship in Algeria. However, some elements of the media legal framework create strong incentives for self-censorship.

Special legislation during electoral periods promotes and, apparently, grants equal right of access to public media for all candidates. Nevertheless, events that occurred during the 2014 presidential elections – when Algerian journalists were arrested during street protests and foreign correspondents were subjected to severe freedom of movement – might be interpreted as having threatened this right in practice.

The 2014 Law on Audio-visual Activities enshrines the protection of minorities, children and women. It also acknowledges the role of the new Audio-visual Regulatory Authority and Algeria's ongoing international obligations.

The ongoing Constitutional Amendment Process (through the initiative of President Bouteflika, presented in May 2014) addresses the constitutional protection of civil rights and freedoms. However, no overview of the process is possible until it has been completed. We can conclude, therefore, that, whilst recent reforms to media legislation have clearly demonstrated progress towards European and international standards, some significant changes are still needed both at a legal level and in practice.

I.I. SWOT ANALYSIS

I.I.I. Internal level

Strengths	Weaknesses
End of state monopoly of the media is now a reality	Although Algerian law allows for privately owned press, radio and TV, a strong private sector has not yet developed
Many of the more severe restrictions on media were recently repealed by new legislation	Vague and ill-defined concepts used in legislation leave laws open to interpretation – this is not in line with international best practice and represents a risk to Algeria meeting its international obligations
Some private newspapers act with independence and are pluralist in their approach	Private newspapers remain to a great extent economically dependent on the state (through advertising)
The Algerian state has undertaken to meet international obligations regarding human rights and freedom of the press	International obligations are still inadequately reflected in Algerian legislation concerning information and the audio-visual
The (non-governmental) advertising market has grown significantly	There remains no coherent set of rules regulating advertisers' investment in media
There are no government restrictions on access to the internet	Severe judicial sanctions exist for publishing or broadcasting on the internet any content the state deems unsuitable
Opportunities	Threats
The implementation of the 2014 Audio-visual Law (including creation of the Audio-visual Regulatory Authority)	Risk that these changes are on paper only and not reflected in practice
The Constitutional Amendment Process that began in June 2014	Risk of low levels of participation (the opposition has refused to participate); some question the democratic legitimacy of the process and its achievements

¹ The "more for more" principle is the cornerstone of the new ENP. It is an incentive-based approach supporting EU neighbours who are willing to embark on political reforms and respect human rights, democratic principles and the rule of law. In its May 2012 ENP Communication, the EU reiterated this principle and stated that the new financial European Neighbourhood Instrument (ENI) will "further strengthen the link between policy and assistance and provide a higher level of differentiation in cooperation with partner countries, reflecting their commitment to universal values, progress in deep democratisation and jointly agreed objectives".

2. INTRODUCTION

Media legislation in Algeria is not based on a strong tradition of press freedom, but there have been several recent positive changes in the country's legal and political environment. In theory at least, the state no longer has a monopoly over TV and radio, but there is much further to go before media is fully independent.

2.1. BACKGROUND

President Abdelaziz Bouteflika lifted the 19-year state of emergency in February 2011 due to renewed anti-government protests amidst the ongoing Arab Spring. Protests started in January over food prices and unemployment. In April 2011 President Bouteflika set up a committee tasked with proposing constitutional changes aimed at "reinforcing democracy" and, in line with this approach, in September 2011 he ended state monopoly over radio and TV.

The current constitutional framework of Algeria, its recent history and political

situation are best viewed against the background of the violent unrest of recent decades. The fact that a 19-year state of emergency could be imposed gives some indication of the difficulties the country has faced.

2.2. MEDIA LANDSCAPE

Ranked 121st out of 180 countries in the 2014 Reporters Without Borders press freedom index,² Algeria still has a strongly state-regulated media landscape. However, there have been several important and positive changes in the legal and political environment since 2011.



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2.2.1. Television

There is one state-run TV station, Entreprise Nationale de Télévision (ENTV), which manages five different channels.³ Following independence, in 1963, the Algerian authorities took over the television infrastructure, facilities and means of production and incorporated the technicians and other staff to create Radiodiffusion Télévision Algérienne or RTA. In 1986 RTA was divided into four entities : ENTV, Entreprise Nationale de Radiodiffusion Sonore (ENRS), Téllédifusion d'Algérie (TDA), Entreprise Nationale de Production Audiovisuelle (ENPA).

In September 2011 President Bouteflika ended de facto state monopoly over radio and TV (although the new Law on Information was not published in the Official Journal until 2012). This led to the birth of new privately owned channels. The majority of the main private channels broadcast from outside Algeria and are therefore subject to foreign law, which has generally been clearer and in many cases less restrictive than Algerian law. However, Law No. 14-04 on Audio-visual Activities (passed February 24th 2014) aims to regulate and, for the first time, set a framework of coherent rules applicable to private television channels established in Algeria.⁴

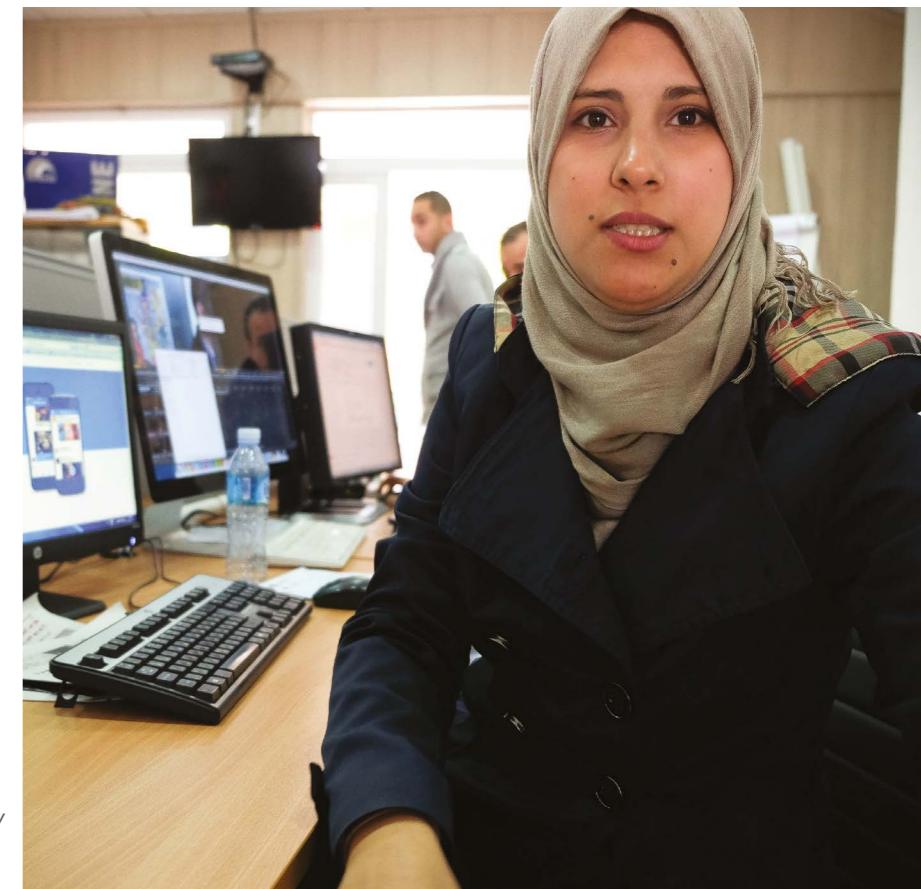
2.2.1.1. State-owned TV channels

Channel	Classification	Year of foundation	Country of establishment	Observations
La Terrestre	Generalist; covers information, entertainment, sports and culture	1967	Algeria	
Canal Algérie	Generalist; dedicated to the Algerian diaspora	1994	Algeria	French language
Algérie 3	Generalist; targeting the Arab world	1994	Algeria	Arab language
Algérie 4		2009	Algeria	Broadcasts in five Amazigh dialects (Kabyle, Chenoui, Mozabite, Chaoui and Targui)
Algérie 5	Religious; dedicated to the Koran	2009	Algeria	

2.2.1.2. Privately owned TV channels

Note that the country of establishment is based on information in the *Projet de Collecte de données statistiques sur les marchés cinématographiques et Audiovisuels dans 9 Pays Méditerranéens* (pp. 50–51). However, it is important to emphasise that this information should be taken in the context of the report as a whole. Thus, on p. 40 it clearly states that until Law 14/04 came into force, and according to the legislation of 2012, all private TV channels were foreign based. The report also notes that, since June 2013, Echourouk, Ennahar and El Djazaïria TV have been authorised, at their request, to open "interim" offices in Algiers. The initial authorisation remained valid until the December 31st 2013 and is renewable through request by the channels to the Ministry of Communication. However, authorisation can be withdrawn at any time by the Ministry.

The table overleaf presents a list of privately owned TV channels in Algeria.



² See: <http://rsf.org/index2014/en-index2014.php>.

³ See the ENTV website at: www.enty.dz/tvfr.

⁴ See "Projet de collecte de données statistiques sur les marchés cinématographiques et audio-visuels dans 9 pays méditerranéens: Algérie". Euromed Audiovisuel, Tunis. Available at: <http://euromedaudiovisuel.net/Files/2014/05/27/1401210761199.pdf>.

Channel	Classification	Year of foundation	Country of establishment	Observations
Ech Chourouk TV	Generalist covers wide range of subjects from information to entertainment	2011	Algeria	Mainly broadcast in Arabic, but also in French and Amazigh
Ech Chourouk 2	News		Algeria	
Ennahar TV	Mainly news, political debates and popular religious issues	2012	Jordan (Amman)	Ambition to become one of the most prominent television stations in the Maghreb, and information channel in the Arab and European world
Ennahar TV Doc.	Documentary		Jordan (Amman)	
El Djazeïria TV	Generalist; stands for values of Algerian identity	2012	Bahrain/Jordan	
Numidia New	24-hour news	2012 (started as a digital newspaper in December 2011 and evolved into a TV channel)	Switzerland	Arabic, French, English and Tamazight; has office in Algiers; reporters and offices all over the world (incl. Washington, Paris, Brussels, Barcelona, Gaza, Istanbul)
Dzaïr TV	News, sports and entertainment; stands for values of Algerian identity	2013	Algeria	Arabic, Tamazight and French; belongs to the Media Group Temps Nouveaux, headed by Ali Haddad, which owns the daily newspapers Temps d'Algérie and Wakt El Djazir
Al Asr TV ⁵	Described by Euromed Audionisuel II/CDSU as a "political channel"	2011	United Kingdom	Combines former Rachad TV and Kalima TV
Al Magharibia TV		2011	United Kingdom (London)	
Samira TV	Thematic channel; Algerian cooking art, sewing and crafts (non-stop transmission)	2013	Algeria	
Djurdjura TV	Thematic channel; for children	2013	Bahrain	Algerian Arabic (in the future, possibly Tamazight)
Hogar TV	General channel; Turkish, Iranian and Egyptian serials	2012	United Kingdom	
Beur TV	General	2003	France	
KBC El Khabar TV	General channel, with particular focus on news	2013 (Eutelsat); 2014 (Nilesat 101)	Algeria	The origin of this channel is El Khabar Newspaper

2.2.1.3. TV channels for presidential elections

Prior to the 2014 presidential elections, a number of television channels were created solely for electoral and propaganda purposes. Ali Benflis, a candidate in the presidential elections, established Espoir channel. President Abdelaziz Bouteflika also launched a TV channel and radio station (Wiam) and the channels Président TV and Sallam TV have also been involved in his campaign.

In this context, the case of Al Atlas TV is important. In March 2014, Al Atlas TV was shut down by the Algerian authorities. Al Atlas, considered by some to be actively supportive of Benflis's candidature, was intensively covering the protests and demonstrations against a fourth term of Bouteflika. According to Amnesty International, Al Atlas "had extensively covered the arrest of dozens of peaceful protesters during last week's pre-election demonstrations and had been critical of President Abdelaziz Bouteflika's intention to run for a fourth presidential term".⁶

Although it is not possible from the information available to state with certainty that Al Atlas TV was shut down exclusively for political reasons, it is true that the lack of legal clarity regarding private television in Algeria opens the door to misconceptions. Whatever the truth of the matter, the vagueness of the current legal situation does nothing to prevent a politically biased decision being made under the guise of a formal legal one.⁷

2.2.2. Radio

Radio is one of the most popular media in Algeria. The Entreprise Nationale de Radiodiffusion Sonore (ENRS)

manages five national state-owned radio stations. Moreover, according to the information on the minister of communication's website, there are also 48 local radio stations (one for each province or wilaya).

As Frank La Rue states: "A high percentage of the population draws its information from television and radio."⁸

In comparison with newspapers, these media outlets are more accessible to many rural Algerians, who are either illiterate and/or too poor to buy newspapers. Even those who do have access to print media may not understand the standard Arabic and French used, although this latter may also be true for radio and TV broadcasts.

Although the creation of private radio stations was explicitly allowed by an amendment to the 1990 Information

Code (a piece of legislation that was developed first in 1988), radio remains largely a public institution run by the Algerian government. Along with the United Arab Emirates, Algeria has the highest number of government-owned local FM radio stations of all Arab countries. Many Algerian radio stations broadcast in French, Arabic, Berber and English.

The effect of this government monopoly of the radio is slightly limited by the global nature of radio frequencies and satellite channels, so that Algerian radio audiences are able to experience European content to supplement government programming. Algerians are now able to receive radio broadcasts from many different European and Arabic stations, but although the number of private radio stations is growing rapidly, they are still outnumbered by state-

Radio channel	Classification	Observations
Channel 1		Arabic language
Channel 2		Berber language
Channel 3		French language
Radio Culture	Thematic; culture	
Radio Koran	Thematic; religious/Islamic broadcasting, different religious programmes, recitations from the Koran, and interpretation of the Hadiths	
El Bahdfa	Thematic; music	
Radio Internationale	24-hour news	Broadcasts in Arabic, French, English and Spanish

⁵This channel is controversial because of the content it broadcasts and also because of its founders. It combines the former Rachad TV and Kalima TV and claims to provide a platform for those Algerian citizens it believes are marginalised by state media: autonomous workers' associations, politicians, students, human rights activists, intellectuals and women and men who are active in the arts and culture. Al Asr has had problems with the authorities and suffered technical difficulties – which some would say are related – since its first broadcast. Rachad TV, which began as an internet channel, was founded by Mourad Dhina, former member of Islamic Salvation Front or FIS in Algiers and creator of the Rachad Movement in Switzerland (which unites the opponents of President Bouteflika exiled in the United Kingdom, Germany and Switzerland). Mourad Dhina was arrested by French police at the request of Algerian authorities on January 16th 2012 at Orly Airport while travelling to Geneva. After almost six months of detention in Paris, the French judiciary ordered his release, ruling the Algerian warrant to be ill-founded. Taking into account the controversies surrounding Al Asr TV and its strong and clear political bias, we chose not to classify this channel.

⁶"Algeria: Authorities shut down TV channel". Amnesty International press statement, March 14th 2014.

Available at: www.amnesty.org/en/library/asset/MDE28/003/2014/en/d544fb16-7a7d-4d78-8bca-15cd41496492/mde280032014en.pdf.

⁷It is worth reading "Al Atlas TV, première victime de la présidentielle algérienne", by Marie-Hélène Soenen. *Télérama.fr*. Posted on March 17th 2014 at: <http://television.telerama.fr/television/al-atlas-tv-premiere-victime-de-la-presidentielle-algerienne,109889.php>. This presents different points of view from those of media actors in Algeria on this situation. See also "Algerian Opposition TV Network Shut Down Ahead of Presidential Elections", by Abdou Semmar. Available at: <https://advocacy.globalvoicesonline.org/2014/03/20/algerian-opposition-tv-network-shut-down-ahead-of-presidential-elections/>.

⁸See "Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression", by Frank La Rue. Posted on May 16th 2011 at: www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf.

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When compared with television and radio, there is no doubt that the printed word – and specifically newspapers – enjoys the greatest freedom.

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owned stations.

Because there are so many local radio stations in Algeria, the following table lists only those state-owned radio stations that broadcast nationwide. It includes no private radio stations because there is no reliable source listing these.

2.2.3. Press

The history of the Algerian press is usually divided into five periods. With independence from France in 1962 the Front de Libération National (FLN) took power. In the three years following independence, editors of newspapers had to belong to the FLN. In theory, they enjoyed the freedom to express their views in print, but in practice, since they were all party members, the press was uniformly in favour of the government.

From 1965 to 1988 civil servants controlled by the state bureaucracy replaced the intellectuals writing in newspapers, and freedom of the press was severely restricted. During this period there were three main government-run newspapers, *El-Moudjahid* ("The Freedom Fighter") published in French, *Ech-Chaab* ("The People") in Arabic and the weekly *Algérie Actualité*, also in French.

After 1988 the pressure for liberalisation of the press was clear and some progress was made in the form, for example, of the 1990 Information Code, which ended government monopoly over the print media. Algeria's opposition political parties began to publish their

own newspapers, although some were unable to do so due to pressure from the government. At this time the principal opposition parties were able to express their views in any non-party independent newspapers with an editorial policy that favoured freedom of expression.

The period of civil war between the government and various Islamist rebel groups, which began in 1992, strengthened the position of the military-backed regime in power. As a consequence, journalists found they were increasingly restricted in what they could publish. A number of newspapers were shut down, some journalists were jailed, some disappeared and others were assassinated. During this period, unsurprisingly, newspaper readership declined.

Since 2000 journalists have regained some of the freedom lost during the early 1990s, but their efforts to disseminate information throughout the different socio-economic groups in Algeria have not been successful. The educated and affluent elite control the content and distribution of mass media in Algerian society; these media often fail to reach the middle classes.

According to recent data:

There are 105 daily newspapers published across the country, with Arabic-language papers enjoying a stronger readership than the others.

Even so, only about a dozen newspapers have daily printing figures of more than 15,000 copies, which means that the sector's advertising revenues and readership are considerably diluted because of the number of options available.⁹

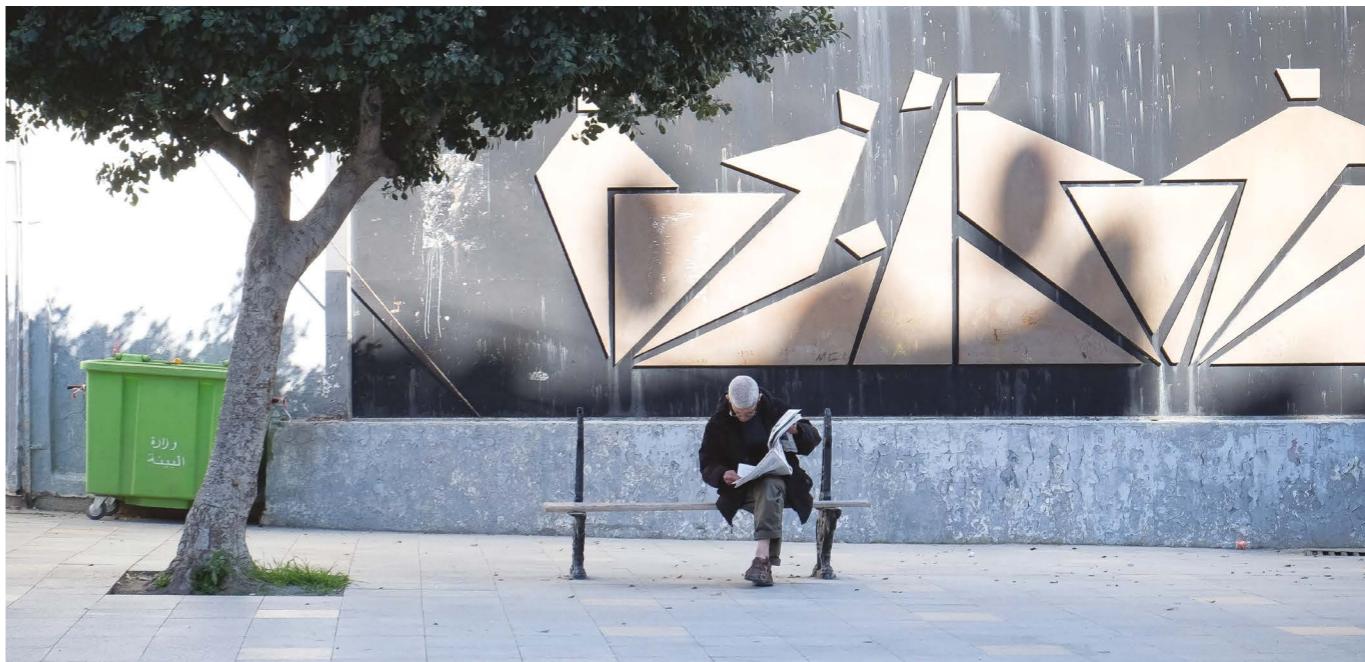
The biggest newspaper in the country is the Arabic-language *El Shorouk*, which prints up to 500,000 copies a day, followed by *El Khabar* with 400,000 copies. "*El Shorouk's* [or *Ech Chourouk's*] print figures are higher than the combined print figures for the five biggest Francophone newspapers," according to Ahmed Fattani, Editor-in-Chief of *L'Expression* newspaper. Indeed, despite having a consistent following, Francophone newspapers are considerably smaller than their Arabic counterparts, which enjoy widespread popularity. The main French-language papers include *El Watan*, at about 100,000 copies every day, followed by *Liberté* at 90,000, *Le Soir d'Algérie* 60,000 and *Le Quotidien d'Oran* and *L'Expression*, each with about 40,000 copies printed daily.¹⁰ The table opposite lists the newspapers with the highest circulation in Algeria.

When compared with television and radio, there is no doubt that the printed word – and specifically newspapers – enjoys the greatest freedom. However, the constraints that the state imposes on advertising, and on the printing industry in general, present concerns for privately owned newspapers.

Most newspapers use government-owned printing houses, although two, *El Watan* and *El Khabar*, invested in their own printing equipment in the 1990s. They, along with the smaller *Quotidien d'Oran*, are the only private newspapers with independent printing capabilities. At the time of writing, government investment in printing houses was about to result in new state-owned units opening in Tamarassnet, Bechar and Ourgla, making it possible for news titles to appear daily in the southernmost regions of Algeria.

Although there is no formal policy of government subsidising the newspaper sector, government advertising functions as a series of subsidies and several smaller papers depend on these to survive. If

Publication	Ownership	Language	Period	Observations
<i>El Khabar</i>	Private	Arabic	Daily	Tabloid format; founded by a group of young journalists in 1990 after the fall of Algeria's one-party system in 1988
<i>Ech Chourouk</i>	Private	Arabic	Daily	Started publishing in the 1990s; also publishes a weekly supplement called <i>Ech Chorouk El Ousboui</i>
<i>Ech Chaab</i>	State	Arabic	Daily	
<i>El Moudjahid</i>	State	French	Daily	Created in 1962 with the goal of being the FLN information bulletin during the Algerian War, circulating among resistance fighters; once war finished it became Algeria's (single-party FLN government) main newspaper; continued to be published after 1988 (when government allowed the publication of independent newspapers); remains a state newspaper
<i>Le Quotidien d'Oran</i>	Private	French	Daily	Established in 1994 in the city of Oran
<i>El Watan</i>	Private	French	Daily	
<i>Le Soir d'Algérie</i>	Private	French	Daily	Created in 1990 in the city of Algiers
<i>Liberté</i>	Private	French	Daily	
<i>La Tribune</i>	Private	French	Daily and weekly	
<i>El-Massa</i>		Arabic	Daily	Founded in 1985; published as an evening edition



⁹ From the Media & Advertising chapter of The Report: Algeria 2013, Oxford Business Group.

¹⁰ See "The Report: Algeria 2013". Oxford Business Group.

the situation changes and government subsidies are reduced, as seems likely, the newspaper sector is likely to change too. For more detail on newspaper advertising see 4.2 below.

2.3. SOURCES OF MEDIA LAW

2.3.1. International sources

An overview of the current legislation affecting the media sector must necessarily begin with an analysis of the main international and regional agreements to which Algeria is committed. This is for two main reasons. First, according to public international law, the domestic legislation of any state must be in accordance with the international obligations to which that state is party. Second, if this report is to suggest recommendations, these should ideally be supported by, or at least not contradict, Algeria's existing international obligations.

Algeria is state party to the following international human rights agreements:

- International Covenant on Civil and Political Rights (ICCPR);¹¹
- Optional Protocol to ICCPR (ICCPR-OP1);¹²
- International Covenant on Economic, Social, and Cultural Rights (ICESCR);¹³
- International Convention on the

- Elimination of All Forms of Racial Discrimination (ICERD);¹⁴
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);¹⁵
- Convention on the Rights of the Child (CRC);¹⁶
- Convention on the Rights of Persons with Disabilities (CRPD).¹⁷

Algeria is also state party to the following regional agreements on human rights:

- the Arab Charter of Human Rights;¹⁸
- the African Charter on Human and Peoples' Rights;¹⁹
- the African Charter on the Rights and Welfare of the Child;²⁰
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;²¹
- Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights.²²

In human rights agreements a state is generally required to assure human rights for everyone under its jurisdiction.²³ The treaties to which Algeria is party enshrine such rights such as the freedom of expression, of peaceful assembly, of thought and religion, of association, and the right to non-discrimination, equality,

and the protection of minorities. These rights and freedoms have clear and direct implications for media regulation. They also establish international obligations regarding judicial rights, which have implications for prosecution and the decisions of courts, particularly regarding media professionals and media enterprises and their owners.²⁴ Where these human rights agreements specify monitoring or judicial frameworks²⁵, this can act as a prompt for states to decide on and make much-needed changes.

2.3.2. The Algerian Constitution

The revolution in neighbouring Tunisia in 2011 and signs of growing discontent among Algerians led President Bouteflika to promise a raft of reforms, including constitutional revisions. A committee finished drafting recommended changes to the Constitution in June 2011. These reforms were keenly awaited but have not been presented to the public at the time of writing. In May 2014 he initiated a new Constitutional Amendment Process.

Articles of the existing Constitution with clear implications for media law include:

- Article 29, granting the equality of all before the law;
- Article 36, stating the inviolability of the freedom of conscience and the freedom

- of opinion;
- Article 41, establishing the freedoms of expression, association and assembly;
- Article 42 which, among other things, guarantees the right of citizens to establish political parties; and
- Article 43, guaranteeing the right to form associations.

Further articles have implications, though indirect, for media legislation:

- Article 2, establishing Islam as the religion of the state;
- Articles 17, 18 and 19, covering the issues of public property, national properties and external trade, which will have economic consequences for the media market;
- Article 31, imposing on institutions the duty to ensure the equality of rights and duties of all citizens in suppressing the obstacles which obstruct the development of the human personality and impede the effective participation of all in political, economic, social and cultural life, and Article 312 bis enshrining the promotion of women's participation in political affairs;
- Article 37, which grants the freedom of commerce and industry;
- Article 38, related to the freedom of intellectual and cultural creativity;
- Articles 45–49 on the rights of detained and accused persons and the meting out of justice by the courts;
- Article 52, which makes a small reference to private property;
- Article 56 on the right to form trades unions.

2.3.3. Media legislation

Several new laws were adopted in January 2012, including Law No. 12-01 on covering the electoral rules, Law No. 12-03, which aims to enhance the chances of women being represented in electoral assemblies, Law No. 12-04, which covers political parties, Organic Law No. 12-05 on information and Law No. 12-06 on associations. On March 2014 a new audio-visual law (Law 14-04) was adopted. These laws will be presented in more detail in the next section.

2.3.3.1. The Algerian media legal system: evolution and constraints

The Organic Law on Information (12-05) and the later the Audio-visual Law

(14-04) are indisputably the two most important legal instruments for the media in the Algerian legal system.

Some of the 2012 reforms were severely criticised, both in Algeria and abroad, for their lack of democratic ambition and also, in certain cases, for being contrary to international standards, and even to Algeria's international obligations. It is important to stress that Algeria is a party to several international conventions and instruments that establish standards on freedom of expression and freedom of the press, and that these are not always met by Algerian national legislation and regulations. Specifically, the international legal standards defined in Articles 19, 21 and 22 of the International Covenant on Civil and Political Rights.

The Organic Law on Information (12-05) repeals the former Law on Information from 1990 (Law No. 90-07), also known as "Criminal Code bis". It defines as its purpose "to establish principles and rules on the exercise of the right to information and freedom of the press". Article 2 defines "information" as an "activity" – this contrasts with the 1990 law, in which "information" was defined as "citizen's right to be informed in a complete and objective way". "Activity" is, in fact, a much narrower definition, particularly since Article 2 goes on to list 12 limits to this activity, some of which are vague and potentially confusing. According, then, to Organic Law 12-05, the right to information and freedom of the press is subject to considerations of: the Constitution, the Muslim religion (and other religions), national identity and culture, national sovereignty and unity, security and national defence constraints, public order constraints, the economic interests of the country, public service missions and obligations, citizens' right to be informed in a "complete and objective" way, judicial secrecy, pluralism of opinions, and human dignity and individual and collective freedoms.

The use of such broad terms in the legal document is not in line with international best practice, since any restriction of fundamental freedoms should be exceptional, clearly defined and justifiable. A long and non-specific list like

this increases the risk that the right to information and the freedom of the press could be overridden erroneously.

Article 3 of the Organic Law on Information (12-05) goes far beyond the strictly journalistic sphere in its restrictions on freedom of information, as it includes in this "activity" "any publication or diffusion of news, messages, opinions, ideas and knowledge, by any written, sound, television or electronic support" directed to the public or to any section of the public. This includes associations, political parties and even individuals. Explicitly, Article 3 also covers electronic media.

Journalists are also under normative obligations, even if the real nature of these obligations may be strongly disputed. Organic Law No. 12-05 goes on to prescribe "respect for the symbols of the state", asking journalists to refrain from: "affecting national history", "making an apologia for colonialism" and "diffusing or publishing images or statements which can be deemed amoral or shocking to a citizen's sensibility". Again broad and vague concepts are brought into play, representing a significant risk to freedom of reporting in the media.

Article 93 of the Organic Law on Information (12-05), which forbids direct or *indirect* interference in public personalities' private lives, establishes rules for the "protection" of public personalities that are far more restrictive than the rules for members of the public. This article (which applies in general to the press, audio-visual, radio and electronic media) is well below European standards on freedom of expression and freedom of the press, namely those established by the European Court of Human Rights in interpreting Article 10 of the European Convention on Human Rights.

The new Law on Audio-visual Activities (14-04, February 24th 2014) organises "audio-visual activity" and establishes the "rules on its exercise" (Article 1). Under Article 3, audio-visual activity can be undertaken by "moral persons" from the state sector (public television), authorised public enterprises, institutions and organs

¹¹ The ICCPR was adopted in New York on December 16th 1966 and entered into force on March 23rd 1976, in accordance with Article 49. Algeria signed the agreement on December 10th 1968 and ratified it on September 12th 1989. Algeria made the following declaration recognising the competence of the Human Rights Committee under Article 41: "[The Government of the Democratic People's Republic of Algeria] recognises the competence of the Human Rights Committee referred to in Article 28 of the Covenant to receive and consider communications to the effect that a state party claims that another state party is not fulfilling its obligations under the Covenant." Egypt, Israel, Jordan, Lebanon, Libya, Morocco and Tunisia are also state parties to the ICCPR, and Palestine has submitted an official bid to become a signatory. See: www.haaretz.com/news/diplomacy-defense/1.583409.

¹² The Optional Protocol was adopted in New York on December 16th 1966 and entered into force on March 23rd 1976, in accordance with Article 9. Algeria acceded to the agreement on September 12th 1989. Libya and Tunisia are also state parties to the Optional Protocol.

¹³ The ICESCR was adopted in New York on December 16th 1966 and entered into force on January 3rd 1976, in accordance with Article 27. Algeria signed the agreement on December 10th 1968 and ratified it on September 12th 1989. Egypt, Israel, Jordan, Lebanon, Libya, Morocco and Tunisia are also state parties to the ICESCR.

¹⁴ The ICERD was adopted in New York on March 7th 1966 and entered into force on January 4th 1969, in accordance with Article 19. Algeria signed the agreement on December 9th 1966 and ratified it on February 14th 1972. Egypt, Israel, Jordan, Lebanon, Libya, Morocco and Tunisia are also state parties to the ICERD.

¹⁵ The CEDAW was adopted in New York on December 18th 1979 and entered into force on September 3rd 1981, in accordance with Article 27(1). Algeria acceded to the agreement on May 22nd 1996. Egypt, Israel, Jordan, Lebanon, Libya, Morocco and Tunisia are also parties to the CEDAW.

¹⁶ The CRC was adopted in New York on November 20th 1989 and entered into force on September 2nd 1990, in accordance with Article 49(1). Algeria signed the agreement on January 26th 1990 and ratified it on April 16th 1993. Egypt, Israel, Jordan, Lebanon, Libya, Morocco and Tunisia are also state parties to the CRC.

¹⁷ The CRPD was adopted in New York on December 13th 2006 and entered into force on May 3rd 2008, in accordance with Article 45(1). Algeria signed the agreement on March 30th 2007 and ratified it on December 4th 2009. Egypt, Israel, Morocco and Tunisia are also state parties to this agreement. Libya and Lebanon have signed it, but have still not ratified it.

¹⁸ The first version of the Arab Charter of Human Rights was adopted on September 15th 1994. However, since no state ratified it, the Council of the League of Arab States updated it on May 22nd 2004. The Charter has since been ratified by Algeria, Bahrain, Iraq, Jordan, Kuwait, Lebanon, Libya, Palestine, Qatar, Saudi Arabia, Syria, the UAE and Yemen, and came into force in 2008.

¹⁹ The African Charter on Human and Peoples' Rights was adopted on June 27th 1981 and entered into force on October 21st 1986. Algeria signed the agreement on April 10th 1986 and ratified it on March 1st 1987. Egypt, Libya and Tunisia are also state parties to this Charter.

²⁰ The African Charter on the Rights and Welfare of the Child was adopted in Addis Ababa, Ethiopia, on July 11th 1990 and entered into force on November 29th 1999. Algeria signed the agreement on May 21st 1990 and ratified it on July 8th 2003. Egypt, Libya and Tunisia are also state parties to this Charter.

²¹ Algeria signed this Protocol on December 29th 2003, but has not yet ratified it. See: www.achpr.org/instruments/women-protocol/ratification/. Egypt is a state party to this agreement.

²² This Protocol was adopted on June 9th 1998 in Burkina Faso and came into force on January 25th 2004 after it was ratified by more than 15 countries. Algeria signed the Protocol on July 13th 1999 and ratified it on April 22nd 2003. Libya and Tunisia are also state parties to this agreement, while Egypt has signed it but has not yet ratified it.

²³ As in, for example, Article 2 of the ICCPR and Articles 3 and 44 of the Arab Charter on Human Rights.

²⁴ See, for example, Articles 9 and 10 of the ICCPR, and Articles 4, 6, 7 and 8 of the Arab Charter on Human Rights.

²⁵ See, for example, the Optional Protocol to the ICCPR; Part II of the African Charter on Human and Peoples' Rights, which establishes the African Commission on Human and Peoples' Rights; and the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights.

3. ANALYSIS OF MEDIA LEGISLATION: STRUCTURE

under Algerian law.

Under Articles 4 and 5 general audio-visual media services (AVMS) ownership and management are no longer the sole preserve of the state. This means two things. First, television is open to private ownership (the government is establishing a formal procedure of authorisation), putting an end to a long state monopoly. In fact, this monopoly was being dismantled under a transitional authorisation process that had been under way for several years. Second, private ownership is restricted to thematic AVMS, these being defined in Article 7 as the "television or audio programmes on one or several subjects" (see also Article 17).

Despite the fact that it is limited to thematic AVMS, this represents a major legal shift in the Algerian media landscape. However, the conditions under which private ownership is permitted are strict – it takes no less than 29 articles (Articles 17–46, not including the many more restrictions which apply to all AVMS) to list them all. To cite just a few restrictions: candidates must be Algerian, all shareholders must be Algerian nationals (this excludes all foreigners from participation in the Algerian economy) in full exercise of their civil rights and no shareholder can have a criminal record. The origin and source of the investment has to be disclosed with proof as to its origins, and all shareholders born before July 1942 must prove that their conduct "was not contrary to the November 1st 1954 Revolution" (Article 19).

The complex authorisation procedure applies to any form or process of distribution of television and audio services, including cable and satellite (Article 21), and no-one can be a shareholder in more than one AVMS (Articles 23 and 45). This is a very restrictive legal solution, since it means that a group holding a private radio authorisation cannot also be authorised owner of a television channel. It also means that if A holds 1% shares in a company that owns a private radio

station he or she is barred from being a shareholder of any other AVMS. The Law on Audio-visual Activities (14-04) also bans a private shareholder from controlling, directly or indirectly, more than a 40% share in any company which operates an AVMS (Article 45).

Article 47 states that, in general, a decree will define (after consultation with the new Audio-visual Regulatory Authority, yet to be installed) more general obligations applicable to all AVMS. This decree, not yet adopted, will include, among others, 34 obligations listed in Article 48.

As is the case with several of the new laws covered in this report, many of the articles to Law No. 14-04 are open to arbitrary interpretation, although the new law as a whole represents a positive evolution compared with previous legislation and regulations.

There is also a strong move towards institutionalised media regulation. The new legislative framework creates at least three new regulatory authorities, which will join the Regulatory Authority for Post and Telecommunications: the Press Regulatory Authority, the Audio-visual Regulatory Authority and the Press Commission (which has responsibility for registering journalists and issuing press cards).

Increased regulation is commendable because it transfers the traditional regulatory or control functions, which were exercised at an exclusively political level, to a more professional and potentially more independent environment.

This increased regulation is commendable because it transfers the traditional regulatory or control functions, which were exercised at an exclusively political level, to a more professional and potentially more independent environment. However, the composition of the new regulatory authorities is strongly dependent on political power and would not meet any European standard regarding the independence of the members of regulatory authorities.²⁶

The Press Regulatory Authority will be composed of 14 members, seven of whom will be hand-picked by politicians as follows: three members (including the chairperson, who holds the casting vote) are chosen by the President; two non-parliamentary members are proposed by the President of the Parliament; two non-parliamentary members are proposed by the National Council President. The other seven members are appointed by professional journalists with at least 15 years' experience.

The Audio-visual Regulatory Authority will have an even more political and "closed" composition, with nine members, of whom five (including the chairperson) will be nominated by presidential decree, two will be proposed by the President of Parliament and two will be proposed by the President of the National Council.

Strict rules concerning who may form a media company in Algeria, along with registration and authorisation requirements for market entry, are prohibitive and conflict with international standards on freedom of association.

3.1. MARKET ENTRY

Under Algerian constitutional and legal rules, although market entry is presented as being unrestricted, it comes with strict rules and conditions about who can and can't form a media company. Article 4 of the Law on Audio-visual Activities (14-04) establishes that a person or must be legally authorised in order to undertake any "information activities". This can amount to an indirect restriction – or prohibition – on market entry, because of the Law on Associations (Law No. 12-06, January 12th 2012), which effectively institutes a regime of government authorisation. Authorisation can be refused under Article 39 of this law if the authorities consider the purposes and principles of the person or group in question to infringe "national values as well as public order, common decency or rules of laws and regulations".

These conditions seem to be in conflict with international standards on freedom of association. Articles 6, 29 and 46 of the Law on Associations rule on the minimum number necessary to constitute an association under Algerian law, on state control over the funding of associations, and on penal sanctions, respectively. Each of these is, at best, questionable in light of international standards.

3.2. PRESS

Article 11 of the new Organic Law on Information declares that "the production of any periodical publication is unrestricted". The truth is that the law imposes a strict process of registration on any publication, for which the editor is responsible. This process is conducted by the Press Regulatory Authority and no longer by the Procureur de la République, which

effectively doubles the maximum delay in authorising publication from 30 to 60 days.

Article 23 of the new law also has consequences for market entry. The editor must prove ten years' experience in the domain of information (general information publications) and five years in scientific, technical and technological publications. This has been presented as a "quality" and "experience" condition and may not necessarily be rigidly applied, but it nonetheless makes it extremely easy legally to prevent almost any Algerian from assuming editorship (and foreigners are not able to hold this post).

3.3. AUDIO-VISUAL AND ELECTRONIC MEDIA

Under Article 63 of the Organic Law on Information, the creation of any thematic AVMS, cable distribution and the use of radio electric frequencies is subject to an authorisation procedure. To be given by decree, this authorisation implies an agreement ("convention") between the beneficiary and the Audio-visual Regulatory Authority.

The exercise of any online information activity is formally unrestricted (Article 66 of the Organic Law on Information), but the editor of the online media is obliged to undergo a stringent registration procedure.

The definition of electronic press Article 67 covers any online written communication service intended for the public or a sector of the public, professionally edited by an Algerian citizen, and there is a comparably broad definition for online audio-

visual services. Algerian legislation specifies that registration is required for anyone undertaking "professional" (journalistic) online communication, and this communication is subject to the limits of Article 2 of the Organic Law on Information (see 2.3.3.1 above) (as is any online exercise of freedom of expression and opinion).

However, Articles 68 and 70 state that online media activity comprises the "production of work with original content, of general interest, regularly renewed and with information relevant to current events, handled in a journalistic manner". This definition is so vaguely worded that it could be applied in many different ways. "In a journalistic manner", for instance, can be interpreted so broadly as to subject a blog to regulatory rules or so narrowly as to deny journalistic rights and guarantees to a professional journalist.

3.4. MEDIA OWNERSHIP

Algerian law has a very strong "nationality" approach, with strong restrictions on foreigners owning media. This also applies, under Article 67 of the Organic Law on Information, to all electronic media (i.e. press and online audio-visual communication services, such as web TV and radio). Concerning the written press, Article 22 states that the printing in Algeria of any newspaper or periodical publication owned by a foreign company is subject to a specific authorisation given by the Ministry of Communication. In general, Algerian law restricts private media ownership on the grounds of limiting media concentration and guaranteeing pluralism.

²⁶ See "Public consultation on the independence of the audiovisual regulatory bodies – Read the contributions". European Commission. Posted on July 16th 2013 at: <http://ec.europa.eu/digital-agenda/news/public-consultation-independence-audiovisual-regulatory-bodies-read-contributions>. See also "Council conclusions on media freedom and pluralism in the digital environment". European Commission. Posted on November 26th 2013 at: <https://ec.europa.eu/digital-agenda/en/news/council-conclusions-media-freedom-and-pluralism-digital-environment>.

4. ANALYSIS OF MEDIA LEGISLATION: FINANCING

Because most Algerian TV and radio stations are state-owned and publicly financed, they are politically answerable. The advertising system is also largely government-run, though there are signs of growing private advertising investment.

4.1. STATE AID

State aid is mostly directed to the press, since a large proportion of TV and radio stations are state-owned and therefore get direct or indirect public financing. Article 127 of the Organic Law on Information says that state aid is directed to "promoting freedom of expression", favouring the local and specialised press. It further states that procedural rules concerning this aid will be determined by specific regulation. There is no specific regulation on this topic concerning television, radio or electronic communication services. Under Article 128 the state is obliged to participate in "the improvement of the professional level of journalists" through training, also in conditions to be defined further by specific regulations. Article 129 provides that "information corporations" must contribute 2% of their annual profits to training and improving the skills of journalists.

As far as can be determined at the time of writing, no objective criteria have been defined in any recent regulation on this subject. However, state aid to the press continues to be decided at a political level (although, as mentioned, some changes are expected at the institutional level). Article 40 of the Organic Law on Information gives responsibility to the new Press Regulatory Authority (yet to be formed) to define the rules and conditions regulating state aid to information organs and to guarantee its distribution. No general criterion of proportionality, equity or transparency is imposed directly by law.

4.2. ADVERTISING

There is no set of coherent or formal rules concerning advertising, nor has any mechanism of self-regulation been created. The Algerian advertising system is mostly controlled by the government-run National Institute for Editorial and Advertising (ANEPE) which decides each year the advertising budget it will allocate to any platform of the media. Inevitably, considering the media system's dependence on advertising, this gives immense power to the government, even though the decisions of ANEPE are presented as objective and market-oriented.

There have been several recent cases in which ANEPE has been accused of acting with bias, "financing" with advertising media outlets that are deemed to be favourable to the established political power. Franck La Rue, special rapporteur of UN Human Rights Council, reports the case of *El Watan* and *El Khabar*, apparently banned from receiving public advertising since 1996 and 1997, respectively, for publishing editorial criticism on government policies.

Several newspaper titles are dependent on government advertising to survive, especially the smaller ones. About 80% of total state advertising goes to the ten biggest newspapers, according to Le Maghreb's Lakoues. Although there is no formal policy of subsidies regarding the newspaper sector, ANEPE is the government body in charge of allocating the yearly advertising budget to the

different newspapers according to their size and print figures. For example, French-language newspaper *L'Expression* receives about \$1.5m from ANEPE annually to help support the costs of its 40,000 copies daily. Although there is a large proportion of sector financing from the state coffers, the most successful titles are increasingly expanding their sources of advertising revenue as the number of private economic operators using the media to advertise their products and services grows.

The current financing of print media might also change with the enactment of the new media law. This may reduce the number of print titles. "It may take two to three years, but there is bound to be a concentration in the newspaper market," Lakoues said. "Some newspapers, particularly those with the smallest print figures, will most likely close. This will also be encouraged by a potential change in the way the ANEPE manages state advertising in the future".²⁷

This was also a concern presented by Frank La Rue, Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, on its Report on its Mission to Algeria.²⁸

State advertising still represents a significant percentage of the advertising revenue for print media but according to the Oxford Business Group, private advertising investment is growing very fast (from €32.2m in 2006 to €51.5m in 2012).

²⁷ See Oxford Business Group, op. cit.

²⁸ La Rue, op. cit.



5. ANALYSIS OF MEDIA LEGISLATION: LIMITATIONS AND PROTECTIONS

Institutionalised censorship may have decreased significantly in Algeria, but hefty fines for defamation and insulting government officials mean most media outlets still exercise considerable self-censorship.



5.1. INSTITUTIONALISED CENSORSHIP

If "censorship" is considered to be control of content, whether written or audio-visual, "institutionalised censorship" in Algeria has diminished significantly in the last few years. There are, however, several elements in the legal and regulatory system that create strong pressure for self-censorship.

Although Article 34 of the Organic Law on Information states that there are no restrictions on the distribution of foreign publications, Article 37 gives the proposed Press Regulatory Authority the power to ban the import of such publications. Moreover, the criteria for such decisions are not defined in law, and since the Press Regulatory Authority is not yet established, these decisions are still taken by the Algerian Ministry of Culture. These potentially restrictive measures, however, seem out of touch given the ease of accessing material on the internet.

Until 2011 both the Algerian Criminal Code and Law No. 90-07 (previously the Information Code) stipulated prison terms of between one month and one year and/or a fine for anyone deliberately offending the Head of State (Law 90-07, Article 97). The Criminal Code had been amended in 2001, broadening the cases in which prison terms were applicable for offending magistrates, civil servants, public officials and so on

(Articles 144 bis and 146 of the Criminal Code). Law 11-14 of August 2nd 2011 decriminalised defamation against these public officials, and the Organic Law on Information (12-05) no longer provides for prison sentences (as did the Law 90-07, Articles 77 to 90) to sanction journalists and editors. However, both these legal instruments impose extremely high fines – in some cases, as noted by the Human Rights Council Special Rapporteur Franck La Rue, 20 times higher than the laws they supersede (which can amount to months' of even years' worth of salary for a journalist in Algeria). This inevitably poses a threat to freedom of expression and freedom of the press, inducing self-censorship in a very efficient way.

Defamation is still a criminal offence under the Criminal Code (Articles 296 and 298), as it is in the majority of European countries. In Article 296 defamation is defined as "any allegation or imputation or a fact offending the honour or consideration of persons, or the body to which the fact is imputed". This vague definition protects both public and private figures, and can include material presented in an "objective" way, without proof of malicious intent. For example, if a journalist publishes an article respecting all legal and ethical obligations and with no "malicious intent" of defaming can be proved, he risks being condemned for defamation if a court

decides that he cannot prove that his allegations are true and that he caused injury to another individual's reputation.

Several criminal offences are subject to freedom of expression restrictions beyond the crime of defamation, as can be illustrated by a very recent example. On June 10th 2014, the Ghardaïa court (600km south of Algiers) condemned a 47-year-old Algerian citizen to a two-year prison sentence and a fine of 100.000 DA (approximately €930) for "publishing photos and videos affecting national interest". These videos were posted on several social networks and show Algerian policemen stealing during violent episodes which occurred in Ghardaïa in November 2013. The perpetrator was imprisoned despite the fact that no one contested the validity of the images or their status as being in the public interest.

Moreover, Articles 2 and 3 of the Organic Law on Information broaden the scope of those who are considered to be engaged in the production of information and apply the same legal framework to "information" and "opinion". This legal situation casts severe doubt on democratic standards and freedom of press and expression, and has evident consequences for the use of the internet and social networks.

Finally, as printing offices and distribution organisations are mostly state controlled,

they constitute a very effective means of restraining print media that are considered hostile to government.

5.2. SPECIAL LEGISLATION DURING ELECTORAL PERIODS

In law all political parties have an equal right of access to public media (Article 15 of Organic Law on Political Parties). During electoral periods, Organic Law No. 12-01, on the Electoral Rules (January 12th 2012, also known as the Electoral Code), includes some specific rules applying to the media. Article 191 states that any candidate in local, legislative or presidential elections has equal access to national and local television and radio in order to present their case to voters. The same principle applies to referendum consultations, but only for public media. For presidential candidates, the Electoral Code sets out an equality principle concerning broadcasting and radio coverage. However, there is no impartial monitoring system to verify compliance with this regulation.

In general, the access of candidates to public media is not clearly defined in the Electoral Code. Under Article 193 of the Code, any form of electoral propaganda through commercial publicity is forbidden during the electoral period. Article 196 also forbids, in general, any candidate in any election to have at its disposal the means or resources of any public or private legal entity. This covers, for instance, the support of any private broadcaster or newspaper.

5.3. LEGISLATION ON THE PROTECTION OF MINORITIES, CHILDREN AND GENDER

The new March 2014 Law on Audio-visual Activity (14-04) defines the general and common duties concerning public or private broadcasters. Most are included in Article 48. It states first, that all audio-visual communication services must comply with "national religious reference", also "respect other religious references" and not interfere with "other beliefs and religions". They promote in their programmes the two national languages (Arabic and Tamazight) and "social cohesion and national culture in all its expressions". The use of both national languages



must be privileged in all programmes and also in publicity.

Regarding the protection of children, all audio-visual media services are under obligation to create mechanisms and technical procedures to protect minors and to respect children's rights as defined in international conventions (such as the UN Convention on the Rights of the Child). This specific reference incorporates, in the evaluation of broadcasters, the main international standards on the topic.

The new Audio-visual Regulatory Authority (Audio-visual Law, Articles 52–88), not yet established, may also assure in the future some level of protection for minorities and children, but is likely to deliver less protection on the grounds of gender. Article 54 stipulates that the Authority can intervene in order to promote and support the two national languages and national culture, and also on the expression of national cultural diversity, and the protection of minors. There is no mention of intervening to promote or protect the rights of women or otherwise prevent discrimination on grounds of gender.

5.4. CONSTITUTIONAL AMENDMENT PROCESS

In May 2014, following President Bouteflika's initiative, a constitutional amendment process was launched involving several well-known personalities

and other representatives of Algerian civil society. Some of the resulting proposals are relevant to this report in that they broaden constitutional protection of civil rights and freedoms, whether directly or indirectly. Some of these amendments, however, are potentially in conflict with the principles of freedom of expression and freedom of the press. This tension is at least acknowledged in a proposed new Article 41 bis of the Constitution:

Freedom of the press is guaranteed. It cannot be restrained by any form of prior censorship. This freedom cannot be used to contravene the dignity, freedoms and rights of others. An organic law will establish the modalities for its exercise.

It is too early to make a final judgement of the impact of this constitutional amendment process. Thus far, however, it appears to confirm a generally positive trend from 2011 onwards concerning freedom of the press in Algeria and to represent a movement towards international standards and the democratisation of political processes. Opposition political parties have been less convinced, however, and have almost all refused to participate in the process. The constitutional amendment process will therefore be a unilateral one – a reflection of the state of political stalemate in Algeria after President's Bouteflika's decision to fight for a fourth presidential term in 2014.

6. RELATIONS WITH THE EU AND THE WIDER REGION

Algeria has expressed a willingness to commit to the European Neighbourhood Policy and, while no action plan has yet been formalised, early progress has been made.

6.1. THE EUROPEAN NEIGHBOURHOOD POLICY

The enlargement of the EU in 2004 brought a special concern: the possibility that this enlargement would create new and stronger dividing lines between the enlarged EU and its neighbours instead of strengthening the prosperity, stability and security of all. This was the main reason for the emergence of the European Neighbourhood Policy (ENP).

The ENP is based on the values of democracy, the rule of law and respect for human rights, and also includes political association and deeper economic integration, increased mobility and more people-to-people contact. It offers to its partners a concrete set of opportunities through a wide range of sectorial policies covering a broad range of issues (employment and social policy, trade, industrial and competition policy to agriculture and rural development, climate change and environment, energy security, transport, research and innovation, as well as support for health, education, culture and youth, immigration, and the combating of terrorism and corruption). The level of ambition for the relationship depends on the extent to which the

values behind the policy are shared by those involved.²⁹

The ENP is proposed to 16 of the EU's closest neighbours, including Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, Palestine, Syria, Tunisia and Ukraine. It is put into practice mainly through bilateral policies between the EU and each partner country, and enriched and complemented by regional and multilateral co-operation initiatives.³⁰

As the ENP evolved, the Commission and the EU High Representative for Foreign Affairs and Security Policy proposed a reformulation of the policy entitled "A Partnership for Democracy and Shared Prosperity with the Southern Mediterranean", on March 8th 2011.³¹ This redefinition of the policy was endorsed by the European Council and welcomed by the European Parliament. A reformulated version of the ENP called "A Partnership for Democracy and Shared Prosperity with the Southern Mediterranean" (which includes Algeria) was adopted following the events of the Arab Spring in 2010–2011. Although Algeria is not specifically named in this document,³² it should be

noted that, regarding the enhancing of sectorial co-operation and, in particular, the development of the internet and other communication technologies, it states:

The use of electronic communications technologies, on top of satellite broadcasting, greatly facilitated the wave of upheavals in the Mediterranean countries. The widespread use of mobile phones combined with social networking via the internet demonstrated the importance of information society tools and technologies to the circulation of information. In countries where the circulation of information is partially restricted, such tools can greatly contribute to the democratisation of societies and the creation of public opinion through the promotion of freedom of expression.

While some regulatory reforms have been undertaken, in many of the southern Mediterranean countries the regulatory environment is still insufficiently developed to exploit the full potential of the growth and productivity of the Information and Communication Technology sector. The main critical factors which remain to

be addressed are the creation of truly open markets (which often remain quasi-monopolies), the establishment of independent regulators, a level playing field and competitive conditions for market players, the efficient management of spectrum and safeguards of user's privacy and security.

Moreover, ensuring the security, stability and resilience of the internet and of other electronic communication technologies is a fundamental building block in democracy. It is necessary to avoid arbitrarily depriving or disrupting citizen's access to them. Given the trans-border and interconnected nature of electronic communications technologies, including the internet, any unilateral domestic intervention can have severe effects on other parts of the world. The commission will develop tools to allow the EU, in appropriate cases, to assist civil society organisations or individual citizens to circumvent such arbitrary disruptions.

The Partnership's aims are largely focused on increasing access to and reducing restrictions on the circulation of information, particularly via the internet, in part inspired by the role of new media in the Arab Spring. This would entail the creation of truly open markets and the establishment of independent regulators, all with the aim of improving citizens' ability to communicate and access information across the region.³³ For this report the relevant ENP policy is the one related to the ENP-South region, which covers ten non-EU Mediterranean countries including Algeria.³⁴ We will pay particular attention to the documents relating to this region (as a general framework on the relations between Algeria and the EU) and, more concretely, to the agreements, negotiations and state of relations between Algeria and the EU within the ENP framework.

It was between the signature of the Agreement and its coming into force that the ENP was launched.³⁵ One reason for Algerian resistance to the

ENP is that the EU "developed its ENP proposal with no prior consultation of the initiative's potential beneficiaries"³⁷ before the Association Agreement was brought into force.

The ENP was not unusual or innovative in its approach, however. Since the Barcelona Process (launched November 1995), the EU and Southern Mediterranean states had a framework available to manage both bilateral and regional relations – the Euro-Mediterranean Partnership (an alliance based on the principles of joint ownership, dialogue and co-operation). In fact, it was within this framework that the Association Agreement between the EU and Algeria was signed in 2002.

In July 2008, after expansion and evolution, and also after the adoption of the ENP, the Euro-Mediterranean Partnership was replaced by the Union for the Mediterranean (July 13th 2008). Since then, Euro-Mediterranean ministerial meetings have been held in order to establish the political commitments that drive co-operation and activity across sectors within the ENP.

After the adoption of the revised version of the ENP – A Partnership for Democracy and Shared Prosperity with the Southern Mediterranean – Algeria expressed its willingness to start negotiations regarding an action plan.³⁸ Negotiations have been conducted and some early progress has been made³⁹ but still no action plan has been adopted.⁴⁰ Despite this, Algeria and the EU "have always maintained close relations dictated by geographical proximity, cultural affinities and a certain amount of economic interdependence, particularly in the energy sector".⁴¹ Algeria is, after all the EU's fifth-largest energy supplier and strategic partner.

²⁹ The European legal framework for this policy can be found in Article 8 of the Treaty of the European Union (on the relations of the EU with neighbouring countries and the possibility of international agreements) and Articles 21 to 46 of its Title V (on the EU's external actions and common foreign and security policy). See also the Treaty on the Function of the European Union, especially Article 206 (on the development of world trade), Article 208 (on the development of co-operation) and Articles 216 to 219 (on international agreements with third states).

³⁰ These include the Eastern Partnership (launched in Prague in May 2009), the Euro-Mediterranean Partnership (EUROMED, formerly known as the Barcelona Process and relaunched in Paris in July 2008) and the Black Sea Synergy (launched in Kiev in February 2008).

³¹ "Joint Communication to the European Council, the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Partnership for Democracy and Shared Prosperity with the Southern Mediterranean". European Commission and High Representative of the Union for Foreign Affairs and Security Policy, Brussels. Available at: http://eeas.europa.eu/euromed/docs/com2011_200_en.pdf.

³² Unlike Egypt, Tunisia and Libya.

³³ "A Partnership for Democracy and Shared Prosperity with the Southern Mediterranean", op. cit.

³⁴ The other nine countries are: Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestine, Syria and Tunisia.

³⁵ Available at: www.bilaterals.org/IMG/pdf/EU-DZ_FTA.pdf. The Agreement evolved from the May 1976 EEC-Algeria Co-operation Agreement.

³⁶ This delay was due to the late adoption by some EU national parliaments of the steps required to implement the Agreement. The last country to take these steps was the Netherlands, in June 2005. See "The Algerian Position on the European Neighbourhood Policy", by Lotfi Boumghar. In "IEMed Mediterranean Yearbook 2013".

³⁷ Lotfi Boumghar; op. cit. As the author concludes: "[T]he Algerian government considered such an attitude to be against the spirit of a partnership that was meant to build relations between the north and south shores of the Mediterranean."

³⁸ In fact, there has never been an ENP action plan on Algeria. For further details, see: http://eeas.europa.eu/np/documents/progress-reports/index_en.htm.

³⁹ These talks started in October 2012 on the basis of an EU proposal. An Algerian counter-proposal was put forward on July 30th 2013 and a first round of negotiations took place in Algiers on October 13th 2013. See: http://europa.eu/rapid/press-release_MEMO-14-219_en.htm.

⁴⁰ This fact differentiates Algeria from the other southern Mediterranean countries included in this report.

⁴¹ Lotfi Boumghar; op. cit.

7. RECOMMENDATIONS

Every effort should be made to encourage Algeria to come into line with global standards on press freedom, market access and media ownership. Exchange of good practice, EU strategies and wider promotion of local broadcasting content can all create the opportunity to influence change in Algeria.

1. The European Union should promote more "horizontal" strategies in negotiations with Algeria. The narrative around the ENP policy, confirmed by the "more for more" approach, is a top-down approach. A more negotiated approach – underlining the interest that the EU has in knowing Algeria's idiosyncrasies – would be a tremendous opportunity to influence the current changes in Algeria.

2. The EU could take a soft-power approach to influencing the changes heralded by the new Algerian media law.

3. The exchange of good practice between European and Algerian media actors (whether regulatory authorities, journalists, editors, advertisers, academics or investors) should be promoted. Depending on the aims, this exchange could be implemented in many different ways: workshops, internships, meetings, training, co-productions, round tables

or seminars. A focus on the training and empowerment of investors and journalists who seek to promote private media within the framework of more recent Algerian legislation would be particularly pertinent.

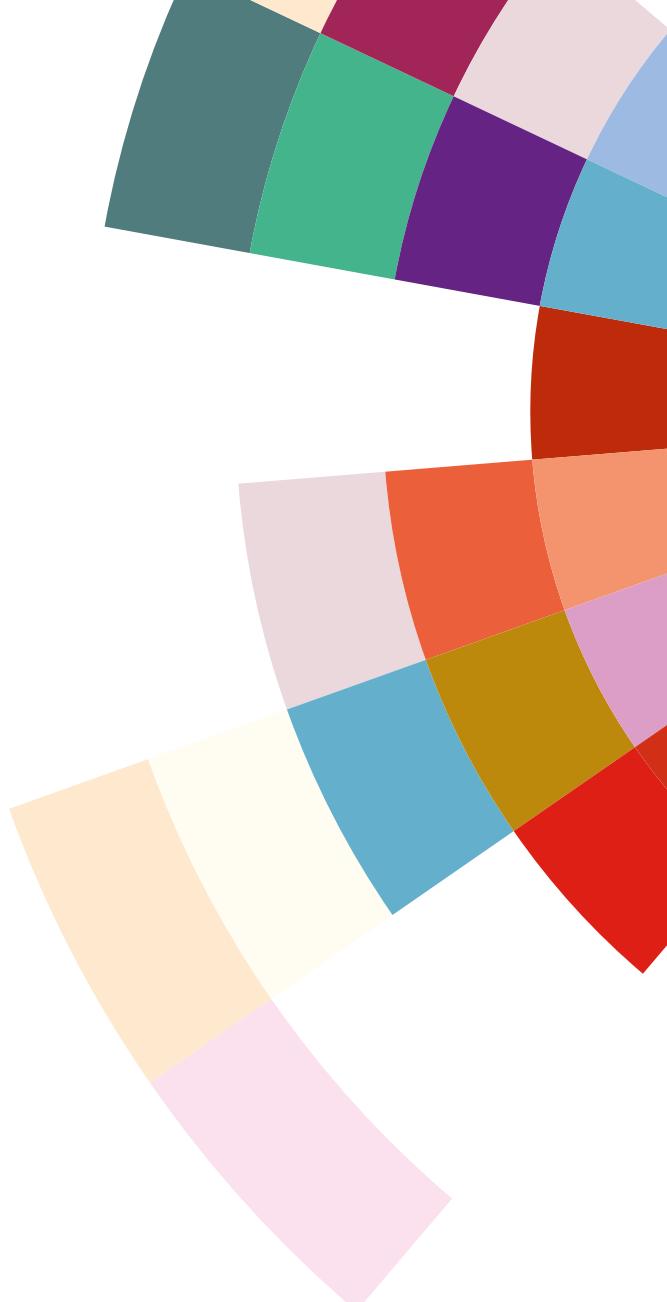
4. Creating a strategy to promote the broadcasting of Algerian content Europe-wide (ad thereby promoting Algerian content production) could be an interesting approach. This way, without interfering with the legal system or the political decisions of Algeria, European actors could fuel the Algerian market for content production and also (through the competition that would exist)

the quality, pluralism and standards of freedom of expression would have to be sought by Algerian actors. The sale and purchase of such TV programmes and formats at international Mediterranean trade fairs would also be an opportunity to promote the internationalisation of European content.

5. It would be helpful to promote dialogue with existing media structures. A good example of this would be negotiation with the Mediterranean Regulatory Authorities Network (MRAN)⁴² in order to facilitate Algerian membership (at least with observer status). The members of this network are Mediterranean states, some of whom belong to the EU. This would make good use of the expertise and experience within the group and help Algeria to build on the experience it is beginning to gain itself. This would also be an example of a horizontal approach to Algeria.

6. Although, in general, the new Algerian media legislation can be viewed as a positive development, every effort should be made to encourage changes that would bring it in line with international standards on freedom of the press, market access and media ownership.

⁴² See: www.rirm.org/en/noflash.



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