

The role of the Media Sector Supervisory Authority in banning the spread of hate speech in Algerian media



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Abstract: Hateful rhetoric increases from day to day and this speech is criminalized by all legislation around the world. Among them the Algerian legislator who confirmed in the Constitution the need to respect individuals and not to incite hatred and combat all forms of discrimination in all fields, has enacted an anti-hate law in 2020 and has urged journalists to refrain from numerous acts affecting their journalistic activity such as spreading and disseminating false news. Endangering people, praising racism, terrorism, intolerance, violence or spreading hate speech and discrimination. This is confirmed by Algeria's new Information Law of 2023.

To emphasize the rigour of the media law in the fight against discourse of discrimination and hatred, the authorities of the audiovisual sector intervened on several occasions to renounce and prevent the dissemination of such rhetoric as the decision to temporarily prevent the broadcasting of the private channel "Al Hayat".

Key Words: hateful language, control power, audiovisual sector, Algerian Constitution, media law 2023

دور سلطتي ضبط قطاع الإعلام في حظر نشر خطاب الكراهية في الإعلام الجزائري.

ملخص:

خطاب الكراهية يزداد يوما عن يوم و هذا الخطاب جرمته كل التشريعات حول العالم ، و من بينهم المشرع الجزائري الذي أكد في الدستور على ضرورة احترام الأفراد و عدم التحريض على البغض و مكافحة كل أشكال التمييز في كل الميادين، فقد وضع قانونا لمكافحة الكراهية في سنة 2020 كما حث الصحفيين بالامتناع عن العديد من الأعمال التي تؤثر على نشاطهم الصحفي كنشر وبث أخبار كاذبة، تعريض الأشخاص للخطر، و الإشادة بالعنصرية و الإرهاب و التعصب و العنف أو نشر خطاب الكراهية و التمييز. وهذا ما أكد عليه قانون الإعلام الجزائري الجديد الصادر في سنة 2023. للتأكيد على صرامة قانون الإعلام في مكافحة خطاب التمييز و البغض تدخلت سلطتي ضبط قطاع السمعي و البصري في عدة مناسبات لنبد و منع نشر مثل هذا الخطاب كالقرار في منع بث قناة الحياة الخاصة مؤقتا.

الكلمات المفتاحية: خطاب الكراهية، سلطة الضبط ، قطاع السمعي البصري، الدستور الجزائري، قانون الاعلام 2023

Résumé :La rhétorique haineuse augmente de jour en jour et ce discours est criminalisé par toutes les lois du monde. Parmi eux, le législateur algérien qui a confirmé dans la Constitution la nécessité de respecter les individus et de ne pas



inciter à la haine et de lutter contre toutes les formes de discrimination dans tous les domaines, a promulgué une loi anti-haine en 2020 et a exhorté les journalistes à s'abstenir de nombreux actes affectant leur activité journalistique, tels que la diffusion et la diffusion de fausses nouvelles. Mettre en danger les gens, faire l'éloge du racisme, du terrorisme, de l'intolérance, de la violence ou répandre le discours de haine et la discrimination. Cela est confirmé par la nouvelle loi algérienne sur l'information de 2023.

Pour souligner la rigueur de la loi sur les médias dans la lutte contre la discrimination et les discours de haine, L'autorité de régulation de l'audiovisuel est intervenue à plusieurs reprises pour rejeter et empêcher la publication de tels discours, comme la décision d'interdire temporairement la diffusion de la chaîne privée« Al Hayat »

Mots clés : langage haineux, pouvoir de contrôle, secteur audiovisuel, Constitution algérienne, Loi sur les médias 2023



Introduction:

To provide a unified framework for the United Nations to address the issue globally, the UN Strategy and Plan of Action on Hate Speech defines hate speech as...“any kind of communication in speech, writing or behaviour, that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor.”¹

Article 19 of the Universal Declaration of Human Rights states“: Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. ”²

In the same context, the preamble to the 2020 amendment to the Algerian Constitution stated that: “The people are determined to free Algeria from discord and violence, extremism, **hate speech** and all forms of discrimination by anchoring its spiritual and cultural values based on dialogue, reconciliation, and fraternity, in accordance with the Constitution and the laws of the Republic.”

The media sector in Algeria is one of the most important sectors in Algeria, to which the Algerian State has given great priority and considerable possibilities and several laws. It is an effective and effective tool for influencing public opinion, an area that is essentially linked to the exercise of constitutionally guaranteed fundamental freedoms in freedom of opinion, expression and freedom of the press. In order to protect the public interest, the Algerian State has subjected the task of controlling media activity to The audiovisual regulatory authority ,from this concept, we will present the following problematic: have the media authorities succeeded in renouncing the spread of hate speech in Algeria?

To answer we divided our subject to two parts: we'll discuss the audiovisual regulatory authority in Algeria to control the media sector and hate speech (the first topic), And Experiences of the Media Sector Control Authorities in Combating Hate Speech in Algeria. (the second topic).

¹- What is hate speech?**understanding hate speech,United Nations, in,** <https://www.un.org/en/hate-speech/understanding-hate-speech/what-is-hate-speech>

²- Universal Declaration of Human Rights (UDHR) , **United Nations, in,** <https://www.un.org/en/about-us/universal-declaration-of-human-rights#>



THE FIRST TOPIC:

The audiovisual regulatory authority and hate speech in Algeria

After independence, the Algerian State paid great attention to the media sector because it is an important and sensitive sector and attributes the exploitation of this sector to the public institution. But after the adoption of the Media Law in 1990, private were allowed to have means of communication, but after years and with the repercussions of media globalization, the Algerian legislature passed a law that allowed all media to be opened to the private sector. for the first time in Algeria adopted the Law on Audiovisual Activity, which entrusted the task of adjusting audiovisual activity to audiovisual regulatory authority (first requirement).

The Algerian State seeks to enshrine the principle of freedom of expression and information, as affirmed in the amendment to the 2020 Constitution, but this principle has placed restrictions on it. The journalist must not advocate violence or disseminate hate speech criminalized by the Anti-Discrimination and Hate Speech law of 2020 in Algeria.(second requirement).

First requirement: Construction of the audiovisual regulatory authority in Algeria

Media Law, which was enacted in 1990, defines certain general principles, including the ethics of the journalistic profession and public morals, such as the requirement for Algerian journalists to adhere to Islamic morality, national values include the non-incitement to racism, intolerance, and treason, as well as other principles that have enshrined the right to freedom of the press, expression, and the obligation of citizens to be honest.

In January 2012, Algeria's government adopted a new Law on Information,¹ which places substantial restrictions on associations' ability to publish and disseminate information. The law required all publications to have prior approval from a media regulatory authority. It also restricted expression and access to information that relates to certain subject areas, such as national identity, sovereignty, the economy, and national security.²

¹- Organic Law No 12-05 of 12 January 2012 on information, Official Journal No 2 of 19 January 2012 (repealed)

²- Abdelmadjid RAMDANE," Discrimination and Hate Speech in Algeria: Prevention and Combat", Legal and Political Research, Vol 07, N°01, June (2021) , P 1439



The 2014 Audiovisual law¹ consolidates this opening even further, though the new private television channels are evolving in a grey zone awaiting further legal texts regulating the sector. Besides newspapers and television channels, electronic media has enriched the Algerian media panorama. The growing number of citizen journalists should also lead to reconceptualising the information sector in the digital and social networks age.²

In order to ensure the exercise of free and responsible media on the one hand, and to strike a balance between the freedom of information and the State's duty to protect public order and the public interest on the other, the media activity was subject to economic control and the task of seizing it was entrusted with two sectoral control powers: the power to control the written press and the authority to control the audiovisual: **“The audiovisual regulatory authority”**

The Authority to Control the Written Press was established under the Organic Law 2012 on Information (repealed) in article 64³. and its functions were clarified by the Law on Audiovisual Activity in 2014.

The tasks of the audiovisual regulatory authority include:

- Ensure the free exercise of audiovisual activity under the conditions defined by the legislation and regulations in force, and ensure objectivity and transparency
- Promote and support both national languages and national culture.

In February 2016, Algeria's Parliament adopted a series of constitutional amendments. The government had first pledged to reform the constitution in response to popular protests in 2011, and it was hoped that the new reforms would help to strengthen Algeria's democracy and its framework for fundamental rights. Among other things, the 2016 amendments reintroduced a two-term limit on the presidency, provided for the creation of an independent election commission, and expanded on existing protections for the freedoms of assembly and the media. The 2016 amendments established a National Council for Human Rights, replacing the National

¹- Law No. 14-04 of 24 February 2014 on audiovisual activity, Official Journal No 16 of 23 March 2014

²- Reporters Without Borders, Algeria: The invisible hand of power over the media, Paris, p4, [rapport_algerie_en_web.pdf](#)

³- Art. 64.” An audiovisual regulatory authority is hereby established, an independent authority with legal personality and financial autonomy”.



Consultative Commission for the Promotion and Protection of Human Rights , to promote, monitor and protect human rights in the country. ¹

Article 54 of the Algerian constitutional amendment of 2020, guarantees freedom of the press, but also threatens journalists' freedom by treating the dissemination of information and opinions in a framework of respect for "the nation's religious, moral and cultural characteristics and values." A reform to the penal code, adopted in 2020, provides for prison sentences of one to three years for disseminating "false news" and "hate speech" aimed at harming "national security and order" as well as "state security and national unity." ²

After three years of the last constitutional amendment in Algeria, Algeria's legislature repealed the 2012 Organic Law on Information and replaced it with the Organic Law of 2023. Article 55 of this Organic law stipulates: "All provisions in breach of this organic law, in particular organic law No. 12-05 of 12 January 2012 on information, shall be abolished, but its implementing provisions shall remain in force until the promulgation of the regulatory acts provided for in this organic law". And this law will be dealt with later in our research.

Second requirement : Discourse of hatred in Algerian law

In common language, "hate speech" ³ refers to offensive discourse targeting a group or an individual based on inherent characteristics (such as race, religion or gender) and that may threaten social peace.

Although the term "hate speech" may at first glance seem to be merely a sociological term that is not commensurate with the treatment of a particular legal topic, international jurisprudence and practice are unanimous in that hate speech is the theoretical precursor to serious crimes such as genocide and various forms of violence. The road to genocide in Rwanda was described as hate speech" .

The provisions of Law No 20-05 of 28 April 2020⁴ ,constitute the last legislative framework to prevent and combat discrimination and hateful language in Algeria. The specificity of Algerian society is distinct from other societies so Algeria faces a complex legislative challenge that requires reconciling international and national

¹ - ICNL, Algeria , [HTTPS://WWW.ICNL.ORG/](https://www.icnl.org/),Last Updated: 12 JANUARY 2023

² - Abdelmadjid RAMDANE, Op.cit , P 1439

³ - However, to date there is no universal definition of hate speech under international human rights law. The concept is still under discussion, especially in relation to freedom of opinion and expression, non-discrimination and equality.

⁴ - Law No 20-05 of 28 April 2020 , on the prevention and fight against discrimination and hate speech ,Official Journal No 25, of 29 avril 2020



variables. Algerian legislation focused more on crimes of discrimination than on other crimes stemming from hate speech.¹

Article 2 of law No. 20-05 on the prevention and combating of discrimination and defines hate speech and discrimination as follows:

- "hateful rhetoric": all forms of expression which propagate, encourage or justify discrimination, as well as those which include a method of contempt, insult, hostility, hatred or violence directed at a person or group of persons on the basis of sex, race, colour, descent, national or ethnic origin, language, geographical affiliation, disability or health status.
- "Discrimination": any distinction, exception, restriction or preference based on sex, race, colour, descent, national or ethnic origin, language, geographical affiliation, disability or state of health s rights and fundamental freedoms ", aimed at or entails impeding or impeding the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis in the political, economic, social, cultural or any other area of public life;

In light of this definition, it appears to be generalized, lacking clarification. in which we find that the term contempt, hostile insult, hatred, directed violence, requires a precise definition to further clarify the image of hate speech, Moreover, what does the Algerian legislator mean by the expression... which contains the method of contempt? Does the term "method" refer to hateful or other phrases and words? Isn't the search for intent behind someone's sentences and words supposed? The definition of the Algerian legislator also focused on giving examples rather than establishing a precise definition².

If we associate the term "hate speech": in the media with **The audiovisual regulatory authority**, we will find that among the tasks entrusted to this **authority** in article 54 of the above-mentioned Law Struggling with this term as follows :

- Ensure, by all appropriate means, respect for the plural expression of the currents of thought and opinion in the programmes of sound and television broadcasting services, in particular during political and general information broadcasts.
- Ensure that all types of programmes presented by Audiovisual Communication Service Publishers reflect national cultural diversity.

¹-الازهر لعبيدي ، "جرائم التمييز و خطاب الكراهية في التشريع الجزائري" ، المجلة الدولية للبحوث القانونية و السياسية، المجلد 04 العدد 1 ماي 2020 ص32

²-قاسمي سمير ، "التمييز وخطاب الكراهية بين القانون 05-20 والاتفاقيات الدولية"، مجلة العلوم الإنسانية والاجتماعية (05)، 03 /05 /2021، ص 155.



According to Article 55 of Law No 14-04, In the same context of combating hate speech, the audiovisual regulatory Authority has been given several powers to curb this phenomenon And other phenomena like this:

A. In terms of regulation: among the tasks of the Council in the field of regulation :

- Applies the rules relating to the conditions of production, programming, and broadcasting of Emissions of direct expression as well as Emissions audiovisual media during the electoral campaigns, by legislation and regulations in vigor.
- Applies the terms and conditions for broadcasting Emissions devoted to political formations and organizations national trade union and professional bodies.

B. in terms of control : The most important powers in the field of control:

- Ensures compliance with laws and regulations in of any audiovisual program broadcast, whatever either the medium used.
- Ensure that the minimum quotas reserved for national audiovisual production and expression in national languages.
- Exercises control, by any appropriate means, over the purpose, content and programming of the advertising broadcasts;

C. In terms of advisory:

- Provides advice on the national development of audiovisual activity
- Formulate opinions on any draft legislation or regulation on audiovisual activity
- Formulates an opinion, on application by a court, on any dispute concerning the exercise of the activity audiovisual.

D. In terms of dispute settlement

- Arbitrate disputes between legal entities operating an audiovisual communication service, either between them or with users.
- Hear complaints from political parties, civil trade unions and/or associations and any other natural or legal person, making violation of the law by a corporation operating a audiovisual communication service.

The tasks and responsibilities of the authority Regulation of audiovisual are Operating online audiovisual.¹

¹- For more powers and functions of the audiovisual regulatory Authority, see articles 55 and 56 of Law 14-4



THE SECOND TOPIC:

The status of the audiovisual regulatory authority in the new media law 2023

The 2023 Organic law guarantees the freedom of expression of the journalist under the Constitution, legislation, and regulation in force. The journalist enjoys legal protection against all forms of violence, insult, or threat during and on the occasion of the exercise of his profession.

The same law provides for mechanisms for the control of media activity and provides for the establishment of the "Authority for the Control of the Written Press and the Electronic Press, an independent authority with moral personality and administrative and financial independence, which shall determine the functions of this authority as well as its composition and functioning under the Law on the Written Press and the Electronic Press." (First requirement).

Under this Organic law, an independent national audiovisual control authority of a special character shall be established with moral personality, administrative and financial independence and shall determine its functions and powers as well as its composition and functioning under the law on Audiovisual Activity. Which by virtue of past experiences will contribute to the fight against hate speech and discrimination (Second requirement).

First requirement: New Media Law Updates on Audiovisual regulatory authority

The press and its various types have come to reflect freedom of thought and opinion, so we can say that press freedom is a measure of the freedom of people. Freedom of opinion and expression is embodied in a newspaper, a book, a photographer's speech or a broadcast .

Given the importance of freedom of opinion, it occupies a prominent place in democratic systems, limiting its release only to legal restrictions intended to place it within a reasonable range for use as a weapon of harm to others. Then came the writing, the audiovisual, and gave freedom of opinion to the boundless social and political dimensions. The technological revolution in the means of expression and the transmission of opinions, which began at the beginning of the 19th century, led to a new innovation and demand that allowed the immediate transmission of opinions and news until the world became accessible to all.¹

¹- عمر سالم، قانون جنائي للصحافة، دار النهضة العربية، القاهرة، 1995، ص ص 4-5



Article 3 of the Organic Law No. 23-14 of 27 August 2023, on information stipulates : “ Media activities shall be carried out freely within the framework of the provisions of the Constitution and this Organic Law and applicable legislation and regulation and with respect for:

- The Islamic religion and the national religious reference.
- Other religions.
- The national identity and the religious, moral and cultural constants and values of the nation”.¹

This law establishes many authorities :

1. the authority of control of the print and electronic press, an independent authority with legal personality and administrative and financial independence. Under this organic act.
2. an independent national authority for audiovisual control, of a particular nature, enjoys legal personality and administrative and financial independence.
3. The Board of Ethics of the Profession of Journalism, composed of twelve (12) members, is also created.²

Article 35 of the new Algerian Media Code also stipulates that, in the exercise of his journalistic activity, a journalist must strictly respect the rules of ethics of the profession set forth in this Organic Code. In particular, a journalist must refrain from:..... dissemination, directly or indirectly, of hate speech and discrimination.³ What is remarkable in this article, which should be mentioned and commended, is the legislature's affirmation to refrain from violating children's rights, and to undermine the image, honour and dignity of women.

New Media Organic Law on Information, granting the Audiovisual regulatory Authority a special character while expanding its functions to include control of audio-visual and Internet communication services as well.

¹ - Organic Law No 23-14 of 27 August 2023 on information, Official Journal No 56 of 29 August 2023.

² - For more information see articles 13, 14 and 34 of the new Media Code, op. cit

³ - Organic Law No 23-14, op. cit



Second requirement :Experiences of the Audiovisual regulatory Authority in Combating Hate Speech

The Audiovisual regulatory Authority is under the Ministry of Communication, which is responsible for monitoring the programmes and contents of Algeria's local television channels and their compliance with the laws of the Republic, in particular those relating to the laws on information, penalties, peace and national reconciliation and the criminalization of hate speech.

In the field of monitoring, the audio-visual control authority ensures respect for the conformity of any audio-visual program, whatever the means of its transmission, with the laws and regulations in force, and ensures respect for the minimum quotas designated for national audio-visual production and expression in the two national languages.¹

As for the advisory field, the authority is invited to express its opinion on the national strategy for the development of audio-visual activity and on every draft legislative or regulatory text related to audio-visual activity. The audiovisual control authority in the field of settling disputes shall also arbitrate in disputes between legal persons who use an audiovisual communication service, whether among themselves or with users, and investigate complaints issued by political parties, trade union organization and /or associations and every natural or legal person. Another notifies it of a violation of law by a legal person who uses an audiovisual communication service.²

Some television channels in Algeria promote some social scourges through programs broadcast during the month of Ramadan. As part of their proactive activities, the the audiovisual regulatory authority has called on media professionals to control their programs while respecting the privacy of the holy month and not slipping behind the material profit.

The same authority also called for "avoiding excitement and manifestations of violence of all kinds, as well as respecting national religious authority and providing an information service that meets the aspirations of the Algerian family".

The Ministry of Communication has established a "cell to monitor the quality of the programs provided during this month, this is to contribute to the task of the audiovisual control authority."³

¹- Meziane nadjia, lasouane kafia , « The authority regulating the audio visual sector.....between legal tasks and political pressures», Journal EL-Bahith in Human's and Social's Sciences , Vol 15 (02) , Kasdi Marbah University Ouargla , .Algeria, 2023,p 249

²- IBID

³- سلطة ضبط السمعي البصري تسهر على مدى مطابقة البرامج لأخلاقيات المهنة، وكالة الأنباء الجزائرية، 30 مارس 2023 ،

<https://www.aps.dz/ar/algerie/141752-2023-03-30-16-18-59>



The Audiovisual regulatory Authority ensures that the programme broadcast by various media outlets conforms to the ethics of the profession and the specificities of Algerian society. This is emphasized in Algeria's new media law, but the experiences of the Audiovisual Control Authority have had previous experiences in combating hate speech:

- The Audiovisual regulatory Authority suspended all Al Hayat broadcasts for a week on June 21, 2021 after a television interview with a former member of parliament who doubted the integrity of Algerian martyrs.
- On 16 August 2021, The Audiovisual regulatory Authority decided to permanently close the channel Lina-TV because it was allegedly working out of legal frameworks agreed on, although the reasons for this decision are not clear. On 23 August 2021, The Audiovisual regulatory Authority issued a similar decision against El Djazairia One and also suspended the channel *Al-Bilad* for a week for allegedly broadcasting images of a terrorist crime.¹
- The Audiovisual regulatory Authority issued a strong warning to the Algerian Public Television Corporation following the recording of a blunder by the presenter of a 24 August 2021 day morning news bulletin. The statement of the audiovisual regulatory authority indicated that the morning publication of the day of Tuesday was recorded on Algerian public television, and during the broadcast of news about the trial of the accused in the case of the martyr Jamal ben Ismail, a blunder by the presenter of the bulletin, in which he described an area of the homeland as terrorist.²

Freedom is a right of all, but it must be exercised within the framework of responsibility. Freedom does not mean freedom from coercion. These restrictions must be respected. They ensure security, peace, and respect for the rights of others.

We believe that the removal of certain restrictions that impede the freedom of the press while maintaining certain justifiable restrictions should not exceed the objective and within the limits of the preservation of morality, public health, the rights of others, national security, public order, and the public interest. The concept of public policy and the public interest should be precisely defined or interpreted by the characteristics of justice without the background or legitimate interests so that the expansion of its use and freedom of the press cannot lead to its abuses.³

¹ - Article 19, England, [Digital rights Archives - ARTICLE 19](https://www.digitalrightsarchives.org.uk/article/19)

² - فيصل الطيب، سلطة ضبط السمعي البصري تنذر التلفزيون الجزائري، الجزائر اليوم، 24 أوت 2021،

<https://www.aljazairalyoum.dz/%D8>

³ - طاهري حسين، الإعلام والقانون، دراسة مقارنة، دار الهدى، الجزائر، 2014، ص 175



Conclusion :

Through the various ideas and points that we have studied in this research, we have reached the following findings:

- The laws on media in Algeria have defined the body authorized to control the audiovisual sector, called “the audiovisual regulatory Authority”, as well as the mechanisms by which this authority intervenes to frame the sector. The Audiovisual regulatory Authority is under the Ministry of Communication.
- The Algerian State has a desire to uphold the principle of freedom of expression and information, as stated in the 2020 Constitution amendment, but it has been hampered by restrictions.
- The journalist must avoid spreading violence or spreading hate speech that is prohibited by the Algerian law of 2020 against discrimination and hate speech. Any violation of this principle shall be liable to punishment.
- Hate speech has been a subject of previous experience for the audiovisual regulatory Authority.
- With the new functions and powers granted by the new Media Law of 2023, the audiovisual regulatory authority and the extension of its validity to the electronic press, the activity of this authority will be wider, because the field of electronic journalism is wide and difficult to control.

From these results, we will make the following suggestions:

- To raise awareness about the dangers of hate speech that threaten the unity of Algerian society, channels of communication must be opened through all possible means of information and social networks. It is important for the Algerian media sector authorities to fight against the increasing prevalence of hate speech in Algeria.
- The need to expedite the development of applied texts of the new media law to enable the Audiovisual regulatory Authority to perform its functions fully.
- Introduction of audiovisual activity to the Algerian community abroad to coincide with the opening of the Algerian television office in the French capital Paris as a first experience.
- The nature of the audiovisual regulatory authority must be determined. Under the constitution, judicial decisions are the only means of interrupting television and radio channels, while regulatory authorities issue administrative decisions with excessive penalties. Therefore, making suspension or closure decisions is a serious breach of the Constitution.



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