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The Legal Framework of Audiovisual Regulation in Algeria

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Abstract

The regulation of audiovisual activity in Algeria raises a key issue: can the legal system ensure both media openness and state control? This study aims to trace the legal evolution of the sector, focusing on Laws 14/04 and 23/20, while assessing the role of the independent regulatory authority and the mechanisms for licensing and sanctions. Findings show that despite some reforms, the legal framework remains restrictive. Licensing authority was centralized under the Ministry of Communication, and the regulatory body's role was weakened. Sanctions remained heavy, limiting the sector's potential for real media pluralism and independence.

Keywords: Audiovisual regulation; Media law; Legal reforms; Media freedom; Licensing and oversight.

Introduction:

The regulation of audiovisual activity holds immense significance within the legislative frameworks of most countries across the globe. Legislative efforts frequently converge to craft laws that are attuned to the nature and specificity of this sector. However, the degree of engagement and prioritization varies from one state to another. In Algeria, the audiovisual field was not initially among the sectors to which the authorities accorded significant attention. Instead, it was regarded as a sovereign domain (vital and strategic) where the state focused more on administration and oversight rather than on legal regulation or fostering pluralism and openness within the field.

A close examination of the history of audiovisual media in Algeria reveals several pivotal stages, beginning with its emergence under French colonial rule, during which it remained subject to French legislation. This continued even after independence. The nationalization of Algerian radio and television on October 28, 1962, marked a liberation of the sector from French authority. However, French laws remained in force—except where they conflicted with national sovereignty. As Algeria embarked on building its own state institutions, it initiated the process of "Algerianizing" its legal system. Nevertheless, audiovisual media did not rank among the legislative priorities of the early post-independence period.

It was not until 1982 that a law was issued to regulate the media sector. This law addressed various dimensions of media but touched only modestly on audiovisual affairs. Even before this, in 1963, a decree had been issued to establish Algerian Radio and Television, declaring it a public institution of an industrial and commercial character, operating under the supervision of the Ministry of Information at the time.

During the single-party era, legislative attention to the audiovisual sector remained limited. The 1989 Constitution, which enshrined political, party, and media pluralism, raised hopes that this paradigm shift would lead to the liberalization of audiovisual media and the introduction of laws reflecting the spirit of the new phase. As a result, the second Media Law was enacted in 1990. However, it fell short of expectations regarding the audiovisual sector, despite its notable emphasis on the print press and the institutionalization of media pluralism.

This led many observers and specialists to suggest that the law implicitly hinted at the potential liberalization of audiovisual media. Some investors even submitted requests to obtain licenses to launch audiovisual operations, but these were denied. The state-owned Television and Radio institutions continued to monopolize the sector. Even as technological developments enabled access to foreign satellite channels, the domestic audiovisual landscape remained closed to private actors.

Several legislative and regulatory attempts were made to alter this status quo, particularly following the issuance of Presidential Instruction No. 17 by President Zeroual, which called for a comprehensive audiovisual strategy aimed at diversifying channels and expanding media openness. These efforts led to draft amendments to the Media Law in 2000, 2001, 2002, 2003, and 2007, which included provisions promoting audiovisual pluralism. However, they remained mere proposals without practical implementation.

This stagnation persisted until the lifting of the state of emergency on February 22, 2011, following the political upheavals that swept across the Arab region earlier that year. The Algerian authorities subsequently declared their intention to liberalize the audiovisual sector as part of a broader package of legal reforms. This intention materialized in the form of several new laws, notably the 2012 Organic Law on Information. Most significantly, Algeria witnessed the enactment of its first-ever law dedicated specifically to regulating the audiovisual sector, marking the beginning of a new phase in the legal organization of audiovisual activity in the country.

In light of the foregoing, the following central question arises: **What have been the most prominent legislative efforts undertaken by Algeria to regulate audiovisual activity, and how has the Algerian legislator addressed this sector?**

The study has been structured as follows:

- **First requirement:** Audiovisual Activity within Legislative Frameworks
This section explores how audiovisual practices are addressed and governed through national legislation, highlighting the evolution and foundational principles underlying the legal texts.

- **Second requirement:** Licensing
An in-depth examination of the regulatory procedures and legal requirements for obtaining authorization to engage in audiovisual activities.
- **Third requirement:** Accountability, Right of Reply, and Correction
This part delves into the mechanisms of legal responsibility associated with audiovisual content, as well as the rights granted to individuals to respond to or correct information disseminated by audiovisual media.
- **Fourth requirement :** The Independent National Authority for Audiovisual Regulation
A detailed analysis of the structure, powers, and regulatory role of the autonomous body tasked with overseeing the audiovisual sector.
- **Fifth requirement:** Administrative Sanctions Resulting from Audiovisual Activity
This section outlines the administrative penalties imposed for breaches in the conduct of audiovisual operations, focusing on their legal basis and enforcement procedures.
- **Sixth requirement:** Criminal Penalties Pertaining to Audiovisual Activity
An examination of the criminal sanctions applicable to violations committed in the context of audiovisual activity, as prescribed by Algerian penal and media laws.

First requirement: Audiovisual Activity within Legislative Frameworks

In continuation of the legal reforms initiated in Algeria following the events of what became known as the "Arab Spring" in the region, several laws were enacted, including Organic Law No. 12/05 on the media⁽¹⁾. This law stipulated the liberalization of the audiovisual sector, leaving the detailed aspects to subsequent regulatory instruments. Pursuant to this organic law, Law No. 14/04 ⁽²⁾ on audiovisual activity was issued for the first time in Algerian history. This law represented a significant achievement for the national legal system governing media and marked a step towards establishing a new phase in audiovisual activity in Algeria. After a long period of tight political control over the sector, it began to experience a relative degree of liberalization, with the emergence of signs of openness in audiovisual media.

First section :The evolution of audiovisual media legislation

Before the promulgation of a dedicated law for the audiovisual sector, the legal framework was characterized by dispersed provisions within media laws or by legal texts that established existing audiovisual institutions. These frameworks were predominantly marked by the state's restrictive control over the sector, considering it a sovereign domain. However, this situation began to change with the adoption of Organic Law No. 12/05 in 2012, followed by Law No. 14/04 on

audiovisual activity. In response to the criticism these laws received, the authorities proceeded with amendments, resulting in the issuance of Organic Law No. 23/14 ⁽³⁾ on the media and Law No. 23/20 ⁽⁴⁾ on audiovisual activity. Consequently, the legislative features of audiovisual media were consolidated in two key legal documents: Law No. 14/04 and Law No. 23/20.

Law No. 14/04 comprises 113 articles divided into seven chapters, while the amended Law No. 23/20 includes 87 articles distributed across eight chapters.

second section :The content of audiovisual legislation through the applicable laws

According to Article 1 of Law No. 23/20, the objective of the law is to regulate audiovisual activity and define the rules governing its practice. As stipulated in Article 2, this activity is to be exercised freely, in compliance with the principles outlined in the Constitution, the Organic Law on Media, the Audiovisual Law, and all applicable legislation and regulations.

The law authorizes any natural person with Algerian nationality, as well as any legal entity subject to Algerian law, to engage in audiovisual production. Audiovisual production is defined as any process of designing, producing, or creating audiovisual works, including but not limited to television films, radio and television programs, series and serials, documentaries, animated films, and promotional clips. The practice of this activity is subject to prior authorization granted by the competent authority, namely the Ministry in charge of communication. However, public institutions and bodies authorized by their basic statutes to undertake such activities and provide audiovisual communication services are exempt from the requirement of prior licensing, as they are already licensed. The implementation details of this provision are referred to regulatory instruments.

Similarly, the filming of audiovisual works requires prior authorization from the Ministry of Communication, permitting producers to film across the national territory. Entities and services already licensed for audiovisual communication are exempt from obtaining such filming authorization. The implementation of this article is also left to regulatory provisions.

In support of fostering national creativity and audiovisual production, the state contributes to enhancing the professional competence of those working in the audiovisual sector by establishing training programs and knowledge renewal initiatives.

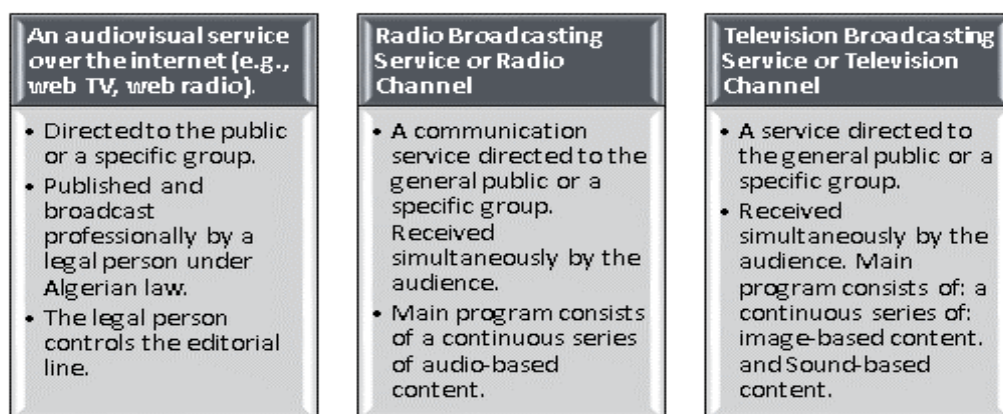
With regard to the production, distribution, and exploitation of cinematographic films, the law refers to Law No. 11/03 on cinema.

Audiovisual activity is not limited to traditional media but also includes digital platforms. The law defines a digital platform as a technical system that, through an interface, provides audiovisual communication services. The practice of audiovisual communication services on digital platforms is subject to a contractual agreement. Audiovisual communication, in the sense of this law ⁽⁵⁾, refers to any public-directed communication service that includes radio or television broadcasting, whether clear or encrypted, transmitted via hertzian waves, cable, satellite, or the Internet.

Audiovisual communication services, as defined by this law, include the following:

- **Television Broadcasting Service or Television Channel:** A public-directed audiovisual service receivable simultaneously by the general public or a specific group thereof, with a main program consisting of a continuous series of image and sound-based content.
- **Radio Broadcasting Service or Radio Channel:** A public-directed communication service receivable simultaneously by the general public or a specific group thereof, with a main program consisting of a continuous series of audio-based content.
- **Internet-based Audiovisual Communication Service:** Any internet-based audiovisual communication service (web television, web radio) directed to the public or a specific group thereof, published and broadcast professionally by any legal person governed by Algerian law, who controls its editorial line (Art. 3).

shema n01: Audiovisual communication services



Prepared by the researchers based on the above information

The law does not specify the nature or form of the contractual agreement but merely mentions the existence of a contractual relationship between digital platforms and the public broadcasting authority. This authority is defined as a public industrial and commercial institution possessing legal personality and financial autonomy, as stipulated in Article 1 of Executive Decree No. 12/212 dated 17 Jumada Al-Thani 1433 (corresponding to May 9, 2012), which outlines the basic statute of the Public Broadcasting Institution in Algeria. This institution was established by Decree No. 86/148 dated 24 Shawwal 1406 (corresponding to July 1, 1986).

Second requirement: Licensing

The legislator regulated the provisions of licensing under the now-repealed Law 14/04 through 26 articles, compared to 18 articles in the new Law 23/20. In Law 14/04, Article 20 defined the legal nature of the license, considering it a “legal contract” between the investor in the audiovisual sector and the regulatory authority on behalf of the government. In contrast, Article 13 of Law 23/20

stipulates that the license is a mechanism rather than a contract, as previously defined. By adopting the term “mechanism” instead of “contract,” the legislator has introduced a clear ambiguity to the legal provision, whereas the legal nature was previously clear and well-defined in the repealed law.

First section: definition of the licence and its conditions

The license is defined as the procedure by which the administration grants permission to engage in a specific activity⁽⁶⁾. It is an authorization to act that grants the right to practice the licensed activity, and is a decision issued by a competent authority⁽⁷⁾, carrying a legal guarantee for both the licensee and third parties regarding the lawfulness of the licensed activity.

The legislator has granted the Minister of Communication the power to issue licenses by decree (whereas previously, this authority belonged to the Audiovisual Regulatory Authority) thus expanding the executive authority's monopoly over the audiovisual sector.

second section : scope of license application

Regarding the scope of license application, the legislator has restricted it to cable broadcasting and the use of radio frequencies via Hertzian waves and satellite, and has added through the amendment the phrase “via the Internet.” Article 5 further clarifies how audiovisual communication services are to be practiced via the Internet.

By examining the provisions of Law 14/04, it becomes clear that the Algerian legislator had entrusted the Audiovisual Regulatory Authority with the power to issue licenses for activity, but this license remained only a preliminary contract between the authority and the beneficiary, to be confirmed by a ministerial decree, as specified in Article 20 of the repealed law.

In Law 23/20, the legislator specified the procedure for granting licenses through Articles 13, 16, and 1. The Minister of Communication grants the license while considering the nature of the audiovisual communication service to be established, the geographic coverage area, the broadcast language(s), and all technical specifications and information provided by the Public Radio Broadcasting Establishment to the Audiovisual Regulatory Authority. The law also stresses the need to diversify operators and to consider funding, the prospects for growth of audiovisual sector resources, contributions to national program production, percentages of artistic works, and the rules applicable to advertising, sponsorship, and acquisition through television⁽⁸⁾.

The duration of the license for radio broadcasting and web radio broadcasting services is set at five years, renewable. The license is to be renewed by the Minister of Communication under the same procedures and conditions specified by law. Even the renewal process is subject to the requirement of submitting an application one year before the expiration of the television broadcast and web television license, and six months in the case of radio broadcasting and web radio services.

The legislator also bound the licensee to activate the communication service under penalty of losing the right. The audiovisual communication service must be exploited within one year for television broadcasting and web television, and

within six months for radio broadcasting and web radio. The period is counted from the date the license is communicated. In cases of non-compliance with the legally set deadlines, the license is revoked.

Third requirement: Responsibility and the Right to Reply and Correct

First section: responsibility

The provisions of the repealed Organic Law on Media 12/05 dealt with responsibility, the right to reply, and the right to correction through Chapter Seven, concerning the right to reply and correction, from Articles 100 to 114.

The Algerian legislator, in the repealed Organic Law on Media 12/05, regulated the provisions of responsibility under Chapter Eight, titled "Responsibility," in Article 115. Chapter Five, titled "The Right to Reply and Correction," included the provisions regarding the right to reply and the right to correction, from Articles 100 to 114. In the latest amendment to the law, the legislator organized all of the above under Chapter Three, titled "Responsibility and the Right to Reply and Correction," from Articles 35 to 38.

It is clear that the repealed media law included all details related to the provisions and procedures of the right to reply and correction, whether in the written press, audiovisual media, or via the Internet. However, in Law 23/14, the legislator only mentioned the general provisions from Article 37 to Article 43, specifying in Article 43 that the procedures for exercising the right to reply and correction would be determined by the laws concerning written and electronic press and audiovisual media.

As for the procedures for exercising the right to reply and correction in audiovisual media, the Organic Law 23/14, as previously mentioned, set out the general provisions and referred in Article 43 to the Audiovisual Law 23/20. Chapter Three of Law 23/20, titled "Responsibility and the Right to Reply and Correction," includes Articles 35 to 38.

Article 35 specifies responsibility, which refers to the obligation of a person to bear the consequences of their criminal act. It is not a component of the crime itself but rather its effect and legal result⁽⁹⁾. From the provisions of this article, it is clear that the legislator adopted the principle of joint responsibility. Therefore, the director of the audiovisual communication service or the internet audiovisual service shares responsibility with the owner of the business.

second section : conditions for exercising the right of reply and right of correction

As for the conditions and procedures for the right to reply and correction in audiovisual media, they are covered in Articles 35 to 38 of the Audiovisual Law.

Referring to Article 38 of the Organic Law on Media 23/14, the definition of the right to correction, according to this law, is the rectification of a fact or opinion broadcast or published incorrectly through any media. The definition of the right to reply can be inferred from Article 37 of the same law, which refers to any false allegation that may harm the honor and reputation of a natural or legal person broadcast or published through any media

A) Conditions for Exercising the Right to Reply and the Right to Correction:

As for the conditions for exercising these rights under the current law, they are as follows:

1- Conditions Related to the Parties Involved in the Right to Reply and the Right to Correction:

1-1 Owners of the Right to Reply and the Right to Correction

- The provisions of Articles 37, 39, and 40 of the Organic Law on Media 23/14 define who has the right to reply and correct. According to the law, the owners of the right to reply and the right to correction are:

- The legal person or the legal representative of the concerned legal person or entity.

- The supervising authority or guardianship to which the person or entity belongs.

- The deceased person, the incapacitated person, or anyone with a legal impediment may be represented by their legal representative, spouse, ascendants, descendants, or first-degree relatives.

- The natural person holding Algerian nationality, and the legal person subject to Algerian law or public entities.

1-2 The Entity Receiving the Right to Reply and the Right to Correction

Every person with a legitimate interest in exercising the right to reply and correction, as defined by the applicable laws and regulations, has the right to direct their request to the legally competent entity. According to Article 100 of the repealed Organic Law on Media 12/05, this entity is the director of the audiovisual communication service. However, the legally competent authority to receive the request, according to the Audiovisual Law 23/20, is the National Independent Audiovisual Regulatory Authority, as per Article 36. This grants the regulatory authority the right to receive any request containing a correction or reply to an allegation, positioning the authority as a mediator between the harmed party and the media outlet. Previously, the request was sent directly without any mediation. The law also grants the National Independent Audiovisual Regulatory Authority the power to adjudicate the request and formulate a correction or reply statement and direct it to the responsible director. The director of the audiovisual communication service or the internet audiovisual service must broadcast the statement issued by the legally competent authority.

2- Conditions Related to the Request:

2-1 Content of the Request

Article 37 of the Audiovisual Law 23/20 requires that the request include the allegations and information that the applicant wishes to reply to or correct, as well as the content of the reply to those allegations and the correction of the false information.

2-2 Declaration that the Reply or Correction Falls Within the Exercise of the Right to Reply or Correction

The request must specify the title of the program containing the allegations and the date or period of its broadcast. However, the legislator omitted to mention

the title of the program containing the correction and its broadcast date or period, focusing only on the reply.

2-3 Duration of the Broadcast

The law limits the total duration of the message containing the reply or correction to two minutes. It may not exceed this duration. However, the law does not specify any penalties in case the legal time limit is exceeded.

2-4 Exception to Broadcasting the Reply or Correction

Although the general rule requires that every person harmed by an allegation or mistake has the right to reply to the allegation and correct the error, under the legally specified conditions and time limits, there is an exception for programs in which the concerned person participates personally.

3- Conditions Related to Legal Deadlines:

3-1 Deadlines for Sending the Request

The deadline for sending the request is specified in Article 37 of the Audiovisual Law 23/20 as 30 days, with this being the maximum period. If the request is not made within this time frame, the right to correction or reply is forfeited. This means that any natural or legal person who fails to adhere to the legal time limits cannot claim their right to correct or reply, even if the allegations or false information are proven and confirmed. Therefore, it is crucial to comply with these deadlines and carefully follow the procedures for sending the request, which include sending it by registered mail with acknowledgment of receipt or through a judicial officer. This procedure serves as a safeguard for the applicant to prove that their request was made within the legal time limits, thus avoiding the forfeiture of their right.

3-2 Deadlines for Broadcasting the Statement

The deadline for broadcasting the statement is set by Article 38 of the Audiovisual Law 23/20 at 48 hours from the date the statement is received from the competent authority. Accordingly, the director of the audiovisual communication service or the internet audiovisual service is required to broadcast the statement within the specified time frame. However, there is an exception to the established time limit under Article 38, which reduces the deadline to 24 hours in a specific case, namely during election campaigns, as the law reduces the period to 24 hours for audiovisual communication services.

shema n02: Conditions

Conditions for Exercising the Right to Reply and the Right to Correction	the Right to Reply and Correct	Organic Law on Media 12/05	The Audiovisual Law 23/20
	the Right to Reply and Correct	Chapter Five, titled "The Right to Reply and Correction"	Chapter Three titled "Responsibility and the Right to Reply and Correction,"

	chapter /articles	from Articles 100 to 114	includes Articles 35 to 38.
Conditions Related to the Parties Involved in the Right to Reply and the Right to Correction:	Owners of the Right to Reply and the Right to Correction	Articles:101/102	Article:36
	The Entity Receiving the Right to Reply and the Right to Correction	According to Article 100 of the repealed Organic Law on Media 12/05, this entity is the director of the audiovisual communication service	according to the Audiovisual Law 23/20, is the National Independent Audiovisual Regulatory Authority, as per Article 36
Conditions Related to the Request	Content of the Request	Article 103	Article 37 of the Audiovisual Law 23/20
	Declaration that the Reply or Correction Falls Within the Exercise of the Right to Reply or Correction	Article 107 The request must specify the title of the program containing the allegations and the date or period of its broadcast.	Article38 The request must specify the title of the program containing the allegations and the date or period of its broadcast.
	Duration of the Broadcast	Article107 The law limits the total duration of the message containing the reply or correction to two minutes.	Article38 The law limits the total duration of the message containing the reply or correction to two minutes. It may not exceed this duration. However, the law does not specify any penalties in case the legal time limit is exceeded.
	Exception to Broadcasting	Article107	Article38

	the Reply or Correction	exception for programs in which the concerned person participates personally	exception for programs in which the concerned person participates personally
Conditions Related to Legal Deadlines	Deadlines for Sending the Request	Article 103 The deadline for sending the request is 30 days	The deadline for sending the request is specified in Article 37 of the Audiovisual Law 23/20 as 30 days
	Deadlines for Broadcasting the Statement	Article 109 The deadline for broadcasting the statement is set at 8 days However, there is an exception which reduces the deadline to 24 hours in a specific case, namely during election campaigns	The deadline for broadcasting the statement is set by Article 38 at 48 hours from the date the statement is received from the competent authority. Accordingly However, there is an exception which reduces the deadline to 24 hours in a specific case, namely during election campaigns

Prepared by the researchers

Fourth requirement: The National Independent Audiovisual Regulatory Authority

The National Audiovisual Regulatory Authority was established through the Organic Law 12/05, where Article 64 of Chapter 2, Section 4 states: "An Audiovisual Regulatory Authority is established, which is an independent authority possessing legal personality and financial independence." Article 65 specifies that the tasks, powers, structure, and functioning of the authority are determined by the law governing audiovisual activity, which was enacted in 2014. The provisions of the Audiovisual Regulatory Authority are organized from Article 52 to Article 88 in Chapter 3 of the law.

The most recent amendment to the Organic Media Law 23/20, however, only referred to the authority in Chapter 4, titled "Mechanisms for Regulating Media Activity," in Section 2 titled "The Independent Audiovisual Regulatory Authority," through Article 14. This article refers all matters related to the authority's tasks, powers, structure, and organization to the law on audiovisual activity, which was amended in 2023. This section of the law contains two chapters: the first chapter, titled "Tasks and Powers of the National Independent Audiovisual Regulatory Authority," and the second chapter, titled "Structure and

Organizational Operations of the National Independent Audiovisual Regulatory Authority," covering Articles 39 to 62, detailing all matters related to the authority.

The National Independent Audiovisual Regulatory Authority was created based on legislative provisions, and the legislator defines the authority in Article 14. The name was amended from the Audiovisual Regulatory Authority to the National Independent Audiovisual Regulatory Authority, and it was described as a body with a special character, possessing legal personality and administrative and financial independence.

The concept of legal personality refers to a group of individuals or a collective of assets that are united and cooperate for a specific period to achieve a common goal, whereby this group is independent of the individual self-interests of its members⁽¹⁰⁾.

As for administrative independence, it is essentially reflected at the organizational level, where there are specialized management bodies whose objective is to ensure a degree of operational freedom and avoid the constraints of centralization and administrative hierarchy ⁽¹¹⁾. The concept of financial independence refers to the authority's distinct financial status, allowing it to possess and enjoy legal personality, financial freedom, the ability to make financial decisions, determine its own revenue sources, and manage its budget within the limits of the law⁽¹²⁾.

First section: Composition and Operation of the Authority

1- Composition of the Authority

Article 57 of the repealed Law 14/04 defined the composition of the Audiovisual Regulatory Authority, specifying it to consist of 9 members, including a president, who are appointed by presidential decree. Five of these members, including the president, are chosen by the President of the Republic. Two non-parliamentary members are proposed by the Council of the Nation, and two non-parliamentary members are proposed by the National People's Assembly. These members are selected based on their competence, experience, and interest in audiovisual activity, with their terms set at 6 years, non-renewable⁽¹³⁾.

However, many provisions were amended through the Law on Audiovisual Activity 23/20, where Article 43 stipulated that the authority is composed of 9 members, including the president, who are appointed by the President of the Republic for a term of 5 years, renewable once. They are selected from among competent individuals, personalities, and researchers with actual experience, particularly in the media, technical, legal, and economic fields, with their contributions to the development of audiovisual media being recognized, such as their publications and research.

The key observation regarding the composition of the authority's members is the diversity in the members' characteristics and their differing legal status. Furthermore, there is a noticeable emphasis on experience and involvement in the audiovisual field through various scientific efforts. However, the law does not prioritize media professionals exclusively; the membership is extended to technicians, legal experts, and economists, broadening the pool of individuals

eligible to be part of the authority. As for the selection of members, the legislator granted the executive authority, represented by the President of the Republic, the power of appointment, limiting it to the executive authority without an electoral process.

Regarding the legal duration granted to individuals to perform their duties, the most distinguishing feature of the repealed audiovisual law was its stipulation of a 6-year term, non-renewable, which was considered a guarantee for healthy turnover in the authority and the independence of its members. However, the recent amendment set the term at 5 years, with the possibility of one renewal.

2- Obligations of the Members of the Authority

Once an individual gains membership in the National Independent Audiovisual Regulatory Authority, they are obligated, throughout their term and for the two years following the end of their duties, to:

- Declare their assets before the competent authority in accordance with the applicable legislation⁽¹⁴⁾.
- Refrain from taking any public stance on issues that the authority has deliberated on or that may arise during the course of their duties⁽¹⁵⁾.
- Refrain from engaging in any activity related to the audiovisual sector during the two years following the end of their term⁽¹⁶⁾.
- Maintain professional secrecy concerning facts, actions, information, and documents they may be exposed to in the course of their duties⁽¹⁷⁾.

Causes for Termination of Membership

The Law on Audiovisual Activity 23/20 defines certain situations that prevent members from continuing to perform their duties. These include:

- Owning interests or benefits in a company operating in the audiovisual sector⁽¹⁹⁾.
- Receiving any payment or compensation, except for fees related to services rendered before assuming their position in the authority⁽²⁰⁾.
- A final judgment imposing a custodial sentence⁽²¹⁾.

If any of these conditions are met, the member's position is vacated, and a replacement is appointed to complete the remainder of their term. The replacement is selected from among qualified individuals, personalities, and researchers with relevant experience, especially in the media, technical, legal, and economic sectors, whose contributions to the development of audiovisual media are recognized.

3- Cases of Incompatibility:

The system of absolute or total incompatibility arises when the function of members of independent administrative regulatory bodies conflicts with any other public or private position, any professional activity, or any electoral mandate. Additionally, members are prohibited from holding direct or indirect financial interests.

The system of relative incompatibility, also known as partial incompatibility, means that a specific function may conflict with certain activities but does not extend to other positions, such as public or private roles, nor does it include direct or indirect holdings or involvement. The legislator may address this

incompatibility system for specific members of the administrative body, exempting others⁽²¹⁾.

Regarding the incompatibility system, the Algerian legislator established the total incompatibility system for members of the Audiovisual Regulatory Authority in the repealed Law 14/04. This system was followed by a partial incompatibility system under Law 23/20, which prohibits members of the authority from holding another position in addition to their role in the regulatory body, except for temporary positions in higher education and research supervision.

second section :Organizational Structure of the Authority:

The independent national authority for audiovisual regulation consists of two main bodies⁽²²⁾:

- The Deliberative Body, known as the Council, which includes members and the president.

- The Executive Body, placed under the responsibility of the president of the authority.

Powers of the President of the Authority: The president has wide-ranging powers, including:

- Representing the authority in all civil actions and before the judiciary, acting as its legal representative⁽²³⁾.

- Preparing the order for payment⁽²⁴⁾.

- Determining the organizational structure of the authority's administrative and technical services and managing them according to a decree approved by the Council⁽²⁵⁾.

- Appointing staff in the administrative and technical services in accordance with labor law⁽²⁶⁾.

- Proposing the appointment of the General Secretary to the competent authority⁽²⁷⁾.

- Granting signature delegation to the General Secretary for documents related to the administration and technical services.

Powers of the General Secretary: The General Secretary's powers include:

- Participating in the deliberations of the authority, though without voting rights.

- Preparing the minutes of the deliberations.

- Implementing decisions made in the context of the authority's deliberations.

- Managing the administrative and technical services by delegation.

Authority's Budget: The authority's budget consists of:

- **Revenue:**

- State grants.

- Fees for the establishment of audiovisual communication service licenses.

- Donations and bequests.

- Revenues from its activities.

- **Expenditures:**

- Operational expenses.
- Equipment expenditures.

The authority maintains accounting in accordance with public accounting rules and financial systems, and its expenditures are subject to oversight under relevant laws and regulations.

Decisions of the Authority: The authority adopts a deliberative method for issuing decisions according to Article 56 of Law 23/20: "The Council deliberates and makes decisions, issuing opinions and recommendations in accordance with the tasks assigned to it by this law, and these are published in the official bulletin of the authority." Regarding the validity of deliberations, the legislator did not address this under the current audiovisual activity law, unlike the repealed Law 14/04, which required a majority vote for deliberations to be valid and specified the use of Arabic.

As for the appealability of decisions before competent judicial bodies, the law allows such appeals. Decisions of the authority are subject to administrative appeal and can be contested before the State Council.

The authority also submits an annual report to the President of the Republic and the Presidents of the two chambers of parliament, which is made available to the public within thirty days of its submission.

The authority also approves its internal regulations by means of deliberation in its first session, which defines the methods of its operations.

Regarding the salary system for the president, members, and the General Secretary of the authority, the law refers this matter to regulations under Article 51.

C) Duties and Powers of the Independent National Authority for Audiovisual Regulation:

The law governing audiovisual activity, Law 23/20, defines the duties and powers of the authority in Chapter One, Articles 39 to 42:

1- Duties of the Authority:

Article 40 outlines the duties of the authority, which include:

- Ensuring compliance with the provisions and principles set out in the organic law on media and the applicable legislative and regulatory texts.
- Ensuring the freedom of audiovisual activity within the conditions stipulated in this law and other relevant legislation.
- Ensuring impartiality of legal entities operating audiovisual services.
- Ensuring objectivity and transparency in audiovisual activities.
- Promoting and supporting the use of the national languages and culture.
- Ensuring pluralistic expression of thoughts and opinions through radio and TV broadcasts, especially in political and public media programs.
- Ensuring respect for human dignity and the protection of children and adolescents.
- Facilitating access for people with visual and/or hearing disabilities to programs intended for the public.

- Promoting environmental sustainability and cultural awareness regarding public health.

2- Powers of the Authority:

To perform its duties effectively, Article 41 outlines the authority's main powers in four primary areas:

2-1 In the area of regulation:

Granting licenses for audiovisual activities and studying and deciding on requests has been one of the key points of debate in the repealed law. It was expected that the legislator would make a final decision in the last amendment by granting powers to the authority, but the amendment went against expectations and reduced the authority's powers, granting the exclusive authority to the Ministry of Communication to issue licenses. The role of the authority was limited to providing technical opinions on requests to establish audiovisual communication services.

As for the main powers granted to the authority by Law 23/20, they include preparing special terms of reference and agreements concerning the obligations imposed on licensed audiovisual communication services, as well as determining the conditions that allow audiovisual programs to be aired or broadcasted via television, including on-demand audiovisual services. Furthermore, the law defines the rules concerning the broadcasting of public interest data issued by public authorities.

2-2 In the area of monitoring:

The Independent National Authority for the Regulation of Audiovisual Activities may monitor audiovisual content in both substance and form and implement the necessary procedures according to applicable laws and regulations. The forms of monitoring outlined by the law vary and include:

Monitoring the content of programs, where the authority seeks to ensure that broadcasted programs comply with the laws and regulations in force in Algeria. It also seeks to monitor the adherence to laws, particularly concerning national programs broadcast on Algerian channels, ensuring that minimum quotas for audiovisual production and the use of both languages are respected. Additionally, the authority monitors compliance with the general and specific terms of reference. Its oversight role also extends to technical monitoring related to signal reception, though this responsibility is shared with the public body responsible for managing the frequency spectrum.

The authority also aims to monitor all advertising content, focusing on the topic, content, and methods of scheduling advertising messages and spots. Moreover, it ensures that the airtime for such messages aligns with the conditions set out in the terms of reference imposed on audiovisual services, establishing a minimum limit for advertising messages according to the principles of fair competition and transparent commercial practices.

In carrying out its regulatory duties, the authority may request relevant information from broadcasters and distributors of audiovisual services if necessary, and it can collect essential data from administrations, institutions, and bodies without being bound by any limits other than those stipulated in the

applicable laws and regulations. This is done to prepare its opinions and decisions. The authority is also empowered to put in place mechanisms to verify and monitor the information provided, particularly regarding investments and the management of audiovisual services.

2-3 In the area of studies and consultations:

The Independent National Authority for Audiovisual Regulation is granted advisory powers under Law 23/20, Article 41. However, the scope of this advisory role is limited, as it is confined to legislative and regulatory texts related to audiovisual activities, the promotion of competition in the audiovisual field, and international negotiations regarding broadcasting services, especially concerning the general rules for frequency allocation, specifically regarding Algeria's position internationally. The authority also plays a consultative role in determining the fees for the use of radio frequencies in the allocated broadcast bands. The law makes it possible for the judiciary to resort to the authority in cases of disputes related to audiovisual activities, allowing it to offer technical opinions in this domain.

In addition to its consultative role, the authority is also tasked with preparing studies on the national strategy for developing audiovisual activities.

2-4 In the area of dispute resolution:

The legislator has entrusted the Independent National Authority for Audiovisual Regulation with quasi-judicial powers, permitting it to resolve disputes between parties concerning audiovisual activities. The law grants the authority the importance of resolving disputes without resorting to the courts, which remain as a last resort, or it may be considered optional, meaning parties may choose whether to refer the dispute to the authority or to the judiciary. The issue raised by the amended Law 23/20 is the lack of clarity on whether referring to the authority for dispute resolution is mandatory.

Conditions related to the parties involved in the dispute:

Law 23/20, through Article 41, defines the parties involved in the dispute, which include:

- Legal entities operating audiovisual services with one another or with others, and defines “others” as:

- Political parties
- Trade unions or associations
- Natural persons
- Legal entities

By defining the parties involved in the dispute, the legislator has rectified the omission of natural persons in the repealed Law 14/04.

Conditions related to the subject of the dispute:

The Independent National Authority for Audiovisual Regulation resolves disputes related to complaints and allegations of violations of the law by legal entities operating audiovisual services. Therefore, any dispute not specified in the audiovisual activity law falls outside the authority's arbitration scope.

Procedures to be followed during the arbitration process:

The audiovisual activity law 23/20 does not specify which chamber has the authority to resolve disputes, the number of its members, or how they are selected

and how it operates. As for initiating procedures, it is clear from Article 41 that arbitration is initiated based on a complaint from one of the parties involved in the dispute. Therefore, the authority cannot proceed with automatic monitoring. After resolving the dispute, the authority issues a decision, but the law does not specify the nature of the decision or its enforceability, leaving the matter unclear. It does not state whether the decision is binding or if it has the force of *res judicata*, nor does it specify whether the authority's decision can be appealed. However, referring to Article 54, Section 2, confirms that the authority's decisions can be appealed before the competent judicial bodies according to the applicable legislation.

Fifth requirement : Administrative Sanctions Related to Audiovisual Activity

The legislator has introduced a series of administrative sanctions in cases of non-compliance or violations of obligations stipulated by the applicable legislation and regulations. The main sanctions, according to Law No. 23/14 concerning audiovisual activity, are as follows:

Warning: A warning is defined as a notice or alert issued by the administration to the contractor, pointing out any errors, deficiencies, or delays in fulfilling their obligations. It requires the contractor to comply with legal rules within a specified period, under the threat of appropriate legal action⁽²⁸⁾. In cases of non-compliance with the legal and regulatory provisions, the responsible body, namely the Independent National Authority for Audiovisual Regulation, issues a warning to the audiovisual media institution for compliance with the required procedures. The amended law regarding audiovisual activity, in Chapter One of Section Eight, defines the circumstances requiring the issuance of a warning. These include:

- Failure to adhere to legal texts by the beneficiary of the license or the public sector audiovisual communication services.

Under the law, the procedures for issuing warnings include:

- **Notification of the Warning:** The regulatory authority is responsible for notifying the concerned media outlet and disseminating the warning through appropriate means. However, the law does not specify the exact method or legal deadlines for the notification, leaving it to the discretion of the authority to determine these timeframes.

- **Initiation of Warning Procedures:** The authority may initiate warning procedures through two methods, according to Article 75 of the law. These include automatic action or actions prompted by notifications from political parties, professional or trade unions representing audiovisual activities, associations, or any individual or entity. The legislator expanded the scope of notification by granting several entities this right, though it restricted the issuance of warnings exclusively to the authority, which remains undefined—an oversight compared to the previously annulled Law 14/04, which specifically identified the authority as the Audiovisual Regulatory Authority.

If the public sector audiovisual communication service or the licensee fails to comply with the warning within the specified timeframe, the authority may issue a financial penalty ranging from one million to ten million dinars.

- **Suspension:** The suspension measure is applied if the warning is not complied with, despite the financial penalty. The authority may order a full or partial suspension, with the suspension period not exceeding thirty days.

- **License Revocation:** License revocation is one of the most severe penalties, representing either a temporary or permanent prohibition from engaging in licensed activities for a specified period. Article 78 of Law No. 23/20 regarding audiovisual activity outlines the conditions for license revocation. This action is particularly impactful due to its consequences on the existence and freedom of audiovisual institutions. To prevent violations of individuals' and entities' rights, the legislator set out specific conditions under which licenses may be revoked and required the authority to notify the competent judicial body. These conditions include:

- Violations of national defense and public order provisions, as well as public morals.

- Transfer of a license to operate an audiovisual communication service without prior approval from the Minister of Communication.

- Bankruptcy or judicial liquidation.

- Ownership of shares or stakes by a natural or legal person in more than one licensed audiovisual communication service, whether public and/or thematic.

- Engaging in any form of extortion.

- Engaging in illicit negotiations.

From the provisions of Law No. 23/20 concerning audiovisual activity, it is clear that the legislator has defined several administrative penalties for any audiovisual communication service violating the legally prescribed obligations. These penalties vary in severity, from warnings and fines to suspensions and revocations of licenses. Moreover, the regulatory authority is empowered to mandate the licensee to broadcast an announcement in their programs, acknowledging their legal and regulatory violations and the administrative sanctions imposed.

Sixth requirement: Criminal Penalties Related to Audiovisual Activity

The criminal penalties established by Law No. 23/20 range from financial fines, between a minimum of one million dinars and a maximum of ten million dinars, to the confiscation of equipment and facilities used for operating the audiovisual communication service. The main crimes stipulated by the law include:

Operating Audiovisual Services Without a License: Anyone who operates an audiovisual service, either over the internet or through other means, without obtaining a license as stipulated by law is subject to a fine ranging from two million to ten million dinars, in addition to the confiscation of equipment and facilities used for the illegal operation.

Transfer or Sale of a License Without Approval: The law grants licensees the right to transfer or sell their license to operate an audiovisual service, but only

with prior approval from the Minister of Communication. Failure to comply with this condition results in a fine ranging from one million to five million dinars.

Failure to Possess a Final Broadcasting System: Any legal entity operating a licensed audiovisual service is required to have a final broadcasting system within the national territory. Failure to comply with this requirement is subject to a fine ranging from two million to ten million dinars, along with the confiscation of the equipment and facilities used for the illegal activity.

Unauthorized Audiovisual Production and Filming: Engaging in audiovisual production or filming without the necessary licenses is punishable by a fine ranging from one million to two million dinars, and the judicial authority may order the confiscation of equipment and facilities used for the unauthorized production.

Broadcasting and Distribution of Protected Works in Violation of Copyright and Related Rights: The law mandates that all audiovisual communication services or digital platforms distributing audiovisual content must respect copyright laws. Violations of intellectual property laws in Algeria are subject to penalties as stipulated by Order No. 03/05 concerning copyright and related rights.

Conclusion

Algeria's experience in regulating audiovisual activity is relatively young, with legislative attention to the sector only beginning after the legal reforms following the Arab Spring. The first law on audiovisual activity, Law No. 14/04, marked the beginning of a new era for the audiovisual sector in Algeria. This was followed by Law No. 23/20, which, while aimed at enhancing regulation, did not meet the sector's expectations. In fact, the new law imposed even stricter controls on the sector compared to its predecessor. Despite criticisms of Law 14/04, the amendments introduced by the new law failed to deliver the expected improvements, intensifying rather than relieving restrictions. The new law, although a legislative gain, contains many vague and incomplete provisions. Furthermore, it did not enhance the freedom of audiovisual activity and provided no new guarantees. The granting of licenses is now the sole prerogative of the Minister of Communication, rather than the Independent National Audiovisual Authority, which reduces its role. The new law also reintroduces the same powers and duties for the authority as those under the abolished law, but with reduced scope. Additionally, it introduces a series of administrative and criminal penalties, with the Ministry of Communication holding the authority to impose them. Overall, the legislator's amendment to the law appears rushed, failing to address the sector's criticisms and concerns.

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