

POLICY BRIEF



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Algeria

Violations against minority faiths

The Algerian Constitution states that “Freedom of worship shall be guaranteed and exercised without discrimination in compliance with the law.”¹ The Constitution guarantees the right to freedom of expression and peaceful assembly.²

Since November 2017 and following a series of visits by a government committee with the aim of “checking compliance with safety regulations”, some religious minorities including Ahmadis and the Protestant churches of Algeria (L’Église Protestante d’Algérie/EPA) have faced a high level of legal and government pressure, which resulted

in violations of the right to freedom of religion or belief and the right to peaceful assembly.

The EPA, the umbrella organization of all protestant churches in Algeria, obtained official recognition as a religious association in 1974. New legislation governing associations came into force in 2012, requiring re-registration of existing associations. New provisions required that national associations have a presence in a minimum of twelve governorates.³ The EPA, meeting these requirements, applied for re-registration in 2013. To date, however, the government has provided no response and has failed even to acknowledge

¹ *Algerian Constitution*, Art. 51, 16 September 2020. Available at: <http://www.mae.gov.dz/FR2020054.pdf>.

² *Ibid.*, Art. 52.

³ *Law 12-06 of 12 January 2012 governing associations*. Available at: <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/89142/102237/F1188083471/DZA-89142.pdf> (French).

receipt of the EPA application. With the application still pending, the EPA lacks official legal status. Member churches of the EPA have been pressured to act independently of the EPA. The law requires religious associations to be registered to operate.

Regulation of non-Muslim Worship

Ordinance 06-03 of 2006 regulates the practice of non-Muslim religions and provides that all places of non-Muslim worship must be authorized by the National Commission for Non-Muslim Worship.⁴ Such Commission rarely meets in practice and therefore it has never considered applications for permission to use buildings as churches and to build new churches. Non-Muslim places of worship are unable to obtain formal approval for any matters requiring the Commission's authorization. They are therefore compelled either not to function or to operate on an unofficial basis, which renders them vulnerable to government interference and closure.

Since Ordinance 06-03 was passed, no EPA-affiliated church has received permission to use premises as places of worship, and an application in 2014 for a new church building remains outstanding. A request in 2011 for the return of three historic church buildings to which the EPA has a legal claim and wishes to restore for Christian worship is also pending.

To ensure transparency, Protestant leaders usually inform municipal authorities when rented properties are to be used as places of worship, noting that their churches are members of the EPA which was granted official recognition in 1974. However, governate

authorities challenged this approach in 2008, 2011 and 2016. Pressure has increased significantly from late 2017, as government inspectors checking compliance with building and safety regulations have also demanded to see permits authorizing non-Muslim worship. This has resulted in a wave of church closure orders in the Kabylie and Oran regions.

To date, the Government has ordered 18 churches to close, 13 of which are EPA affiliated churches that had their buildings sealed.⁵

Ordinance 06-03 restricts freedom of religion or belief of non-Muslims by imposing restrictive measures on worship that are not imposed on Muslims. Non-Muslims can only worship in buildings designated for that purpose and that have been granted permission by the National Commission for Non-Muslim Worship. Moreover, non-Muslim worship can only be organized by religious organizations with official recognition. The lack of functioning of the Commission for Non-Muslim Worship makes it practically impossible for non-Muslim faiths to function and organize their worship, even within the undue limitations set by the law.

Although the Algerian Constitution recognizes freedom of worship in Article 51, it makes its exercise limited to actions "in compliance with the law"—a limitation far wider than allowed by international human rights standards outlined in Article 18 of the International Covenant on Civil and Political Rights, to which Algeria is a state party without reservations. Furthermore, Article 51 does not make a distinction between the right to hold a religion or belief (an absolute right) and the right to manifest one's religion or belief.

⁴ Ordinance 06-03 of 28 February 2006 regulating the practice of non-Muslim worship. Available at: http://www.axl.cefan.ulaval.ca/afrique/algerie_ordon-06-03-2006religions.htm (French).

⁵ See full list in annex 1.



Photo: Pastor Salah speaking at a protest against closures, Algeria.

Anti-proselytism restrictions

Article 11 of Ordinance 06-03 of 2006 prescribes a punishment of up to five years imprisonment and fines of up to one million Algerian dinars for anyone who engages in religious speech or writing that is deemed to incite, coerce or “seduce” a Muslim to convert to another religion (or “agitate a Muslim’s faith”). It also makes punishable any religious activity that is not regulated by the state. This provision also criminalizes the printing, storing, or distributing of materials intended to convert or “agitate a Muslim’s faith”. The ordinance violates many guarantees is obligated to under international law: (1) it is discriminatory in its nature because it only applies to non-Muslims and therefore discriminates on the basis of religion; (2) it severely restricts one’s freedom to manifest their religion; (3) it severely restricts freedom of expression; and (4) limits the right to “have or to adopt a religion or belief of his choice”⁶ by assuming that Muslims cannot change their religion. In addition, the provision does not prescribe an objective standard to determine the “intent to convert”.

Several Algerian Christians have been harassed, interrogated or arrested under these provisions in recent years. Faith leaders note with concern that recently a number of cases dating back several years have been revived, indicating a renewed campaign against Christians. In January 2018, a Pastor was sentenced to two years’ imprisonment for sharing printed materials with Muslims in a case dating back to 2015 (the sentence was altered, on appeal, to a three-month suspended prison sentence and a fine of 100,000 Algerian dinars). In November 2017, the police in Chief searched, arrested and interrogated three Christians when found to be in possession of bibles.

Restrictions on importation of religious materials

Executive Decree 17-09 of January 4, 2017 regulates the conditions and modalities under which the importation of religious material is permitted. Christians and other religious minorities face severe restrictions in importing religious literature and other materials due to unjust delays and restrictions. To import religious



Two young men talking overlooking Constantine, Algeria.

books and other materials import licenses must be obtained with the approval of a Commission comprising representatives of the Ministries of Religious Affairs, Foreign Affairs, Interior, and Commerce. The Commission has the mandate to analyze religious books and materials needing import licenses and to ensure that the content of such literature does not threaten the religious unity of the Algerian society, the “religious canon” of the nation, public order, morals, the fundamental rights and freedoms of others and the law and regulations in force.⁷ Limitations imposed by Executive Decree 17-09 go far beyond the permitted limitations prescribed by Art. 19 ICCPR on freedom of expression.⁸ These undue restrictions violate the right to freedom of expression and infringe freedom of religion or belief. Moreover, Christian religious leaders note that applications to this Commission are routinely subject to delay, blockage and mismanagement, with only a small number of import licenses granted during the last three years.

On March 1, 2018, a Christian was informed that he had been convicted, in absentia, of illegal importation of Christian materials and given the maximum sentence of six months in prison and a fine of 20,000 Algerian dinars— his “offence” dated back to April 2016 when he returned to Algeria from a visit abroad with a few Christian books and gift items with Christian inscriptions (crucifixes, keyrings, etc.) in his possession. At the time, custom officials briefly detained him and subjected him to a lengthy police interrogation. He is currently appealing the recent verdict.

⁶ *International Covenant on Civil and Political Rights*, Art. 18. Available at: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

⁷ *Executive Decree No. 17-09 of 4 January, 2017*, Art. 6. Available at: <https://www.commerce.gov.dz/reglementation/decret-executif-n-deg-17-09>.

⁸ “1. Everyone shall have the right to hold opinions without interference. 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. 3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals.” *International Covenant on Civil and Political Rights*, Art. 19. Available at: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

Recommendations:

1 The Algerian Government should **amend Article 51 of the Algerian Constitution** to guarantee the **full right to freedom of religion** or belief as laid out in Art. 18 ICCPR, to which Algeria is a state party without reservation;

2 To ensure that Algeria's regulation of non-Muslim places of worship complies with its international obligations, the Algerian Government should:

- Urgently **ensure that the Commission for Non-Muslim Worship functions efficiently and fairly**; that pending applications from non-Muslim faith groups are considered urgently; and that responses to future applications are made within the designated 60-day period;
- **Withdraw all warnings, closure orders and court cases against churches** and other places of worship; **ensure the immediate re-opening of all closed churches**; and **grant permission** to all EPA-affiliated churches to continue to use rented premises as places of worship;
- **Return to the EPA the historic church buildings** to which it has a legal claim.

3 To ensure the respect of the **right to freedom of religion or belief and freedom of assembly** as prescribed in Articles 18 and 21 of the ICCPR, the Algerian Government should:

- Urgently **process the EPA's re-registration application**, which meets all legal requirements set out by law 12-06, accept this application and provide official documentation to confirm the EPA's registration as the representative association of all Protestant churches in Algeria;

- **Allow religious organizations without official registration to operate freely**, in accordance to the right to freedom of religion or belief as laid out in Art. 18 ICCPR.

4 To ensure Algeria's respect of the right to have or adopt one's religion or belief and freedom of expression, the Algerian Government should:

- **Clarify what constitutes proscribed activity** under Articles 11.1 and 11.2 of Ordinance 06-03;
- **Acquit, drop charges or otherwise withdraw all legal cases** against minority faith adherents such as Christians and Ahmadis brought under Articles 11.1 and 11.2 of Ordinance 06-03;
- Ensure that law enforcement and judicial authorities **cease the harassment and intimidation** of minority faith adherents such as Christians and Ahmadis;
- **Amend Art. 6 of Executive Decree 17-09** to ensure that limitations on the importation of religious material faithfully mirror the internationally permitted limitations as laid out in Art. 19.3 ICCPR;
- Ensure that the Commission mandated by Executive Decree 17-09 to authorize the importation of religious material **responds promptly to applications for import licenses** for religious materials, and that such applications are not subject to unjust hindrance.

Any questions?
Please email advocacy@od.org