

# AMNESTY INTERNATIONAL PUBLIC STATEMENT

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## **Algeria: Associations law must be repealed before January deadline**

Algeria's new associations law should be repealed before the registration deadline for existing associations expires in January and irreparable damage is caused to Algerian civil society, Amnesty International said today. The organization considers the law to arbitrarily restrict and effectively criminalize the exercise of the right to freedom of association, in violation of the state's obligations under international human rights law.

Law 12-06 (12 January 2012) related to associations, promulgated two years ago, reinforces government control over the formation of associations, and imposes wide and arbitrary limitations on their purpose, goals and activities. It gives the authorities the power to refuse the registration of associations which act contrary to "national constants and values", public order, "morality" and laws in force or suspend or dissolve those which interfere in the internal affairs of the country or attack "national sovereignty". Members of unregistered, suspended or dissolved associations face up to six months' imprisonment and a heavy fine of up to 300,000 Algerian dinars (approximately US\$3,820) under Article 46 of the law.

Law 12-06 is also often ambiguous and contains a dissuasive plethora of unlawful or burdensome requirements, including tightened restrictions on foreign funding for Algerian associations. This draconian law could result in the closure of independent civil society organizations and in stifling debate about key political, social, economic and human rights issues.

The negative impact of the new law on Algerian civil society has already begun to materialize, leading several associations to mobilize against the law, as the deadline for registration draws near. On 12 January 2014, all existing associations not successfully registered under the law will be considered illegal by the authorities and their members may be liable for prosecution and possible imprisonment.

A diverse range of anti-corruption, environmental, women's rights, medical and pro-democracy associations have already faced obstacles under the new law.

In October 2012, the National Anti-Corruption Association (Association nationale de lutte contre la corruption, ANLC) saw its registration application rejected by the Algerian authorities, which did not specify the reasons for their refusal, other than that the application did not respect the law. The authorities did, however, provide an explanation when the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association and the UN Special Rapporteur on the situation of human rights defenders raised the issue, saying that the ANLC's goal of fighting corruption was wholly and solely the prerogative of the state and its anti-corruption bodies. The ANLC challenged the decision in an administrative tribunal, which decided in September 2013 that it was not competent to rule on the case.

On 14 July 2013, the governor (*wali*) of the city of Oran suspended two environmental associations, the Association of Residents of Canastel (Association des résidents de Canastel, ARC) and the El Bahia of Bir El Djir Neighbourhood Committee (Comité de quartier El Bahia de Bir El Djir) on the grounds that they violated the prohibition to "interfere in the internal affairs of the country", set out in Article 39 of the law. These suspensions reportedly did not respect the procedure set out in Law 12-06 requiring the authorities to give notice of an organization's suspension three months before it takes effect. Both suspensions were overturned by administrative court rulings in September and October 2013.

Other associations have reportedly decided to shut down in anticipation of insurmountable administrative obstacles contained in the new legislation. Foreign associations also face sweeping restrictions in order to comply with the law and operate legally in Algeria. The Friedrich Ebert Foundation, a non-profit German political foundation, publicly stated that it was ending its capacity-building activities in Algeria at the end of November

2013 as its attempts to register under the new law were unsuccessful.

Amnesty International's main concerns on Law 12-06 are as follows.

### **Tightened government control over the formation of associations**

Law 12-06 gives authorities discretion over the formation of associations. In order to function, associations require prior authorization. The UN Special Rapporteurs on the rights to freedom of peaceful assembly and of association and on the situation of human rights defenders have recommended that compliance with international human rights law involves registration by notification rather than by authorization and registration bodies being independent from the government, and therefore not including local and national government officials as is the case in the new law.

Once associations apply for registration, authorities can either accept them and deliver a registration receipt (*récépissé d'enregistrement*), or refuse registration (Article 8). Rejected associations can appeal the decision through an administrative tribunal within three months. This is a setback compared to Law 90-31 (1990), the legislation that previously regulated associations, which allowed associations who were refused registration to appeal to a judge. If the administrative tribunal overturns the refusal to register, the authorities have three months to appeal that ruling (Article 10).

### **Criminalizing the exercise of the right to freedom of association**

Members of unregistered, suspended or dissolved associations face up to six months' imprisonment and a heavy fine of up to 300,000 Algerian dinars (approximately US\$3,820) under Article 46 of the law. This provision effectively criminalizes the exercise of the universally recognized right to freedom of association, in contravention of Algeria's international human rights obligations, and allows the government to shut down independent civil society organizations.

The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association strongly criticized this provision, stating: "Individuals involved in unregistered associations should indeed be free to carry out any activities, including the right to hold and participate in peaceful assemblies, and should not be subject to criminal sanctions, as the Special Rapporteur regrets is the case in Algeria... This is particularly important when the procedure to establish an association is burdensome and subject to administrative discretion, as such criminalization could then be used as a means to quell dissenting views or beliefs".

### **Vague and arbitrary restrictions**

The new law imposes broad, arbitrary and vaguely defined restrictions on the purpose, goals and activities of associations. Law 12-06 states that associations should be in the "general interest", and not be contrary to "national constants and values", public order, "morality" or laws in force (Articles 2, 22-23, 24). The law also states that associations who "interfere in the internal affairs of the country" or "attack national sovereignty" (Article 39) can be suspended or dissolved.

These vaguely defined restrictions are open to arbitrary or subjective interpretation and could include any criticism of the government, public policies or laws, or legitimate activities in the defence of human rights. This is all the more concerning given previous attempts by the Algerian authorities to adopt laws to stifle the voices of the families of victims of the internal conflict in the 1990s and criminalize them.

Also worrying are the restrictions on associations' interaction with foreign associations. Co-operation with foreign associations, funding from abroad and membership of foreign organizations all require prior approval from the authorities, including from the Minister of Interior and sometimes from several other Ministers (Articles 22, 23 and 30). Such restrictions not only subject associations to further control and discretionary power by the authorities, but can also undermine the ability of associations to obtain and use resources essential to carry out their activities.

### **Unlawful or burdensome requirements**

The new law imposes unlawful or burdensome measures that associations must comply with to register and function, with the potential to seriously undermine civil society organizations' ability to be recognized and operate.

For instance, the law imposes a high threshold of founding members for associations to register at the local or national level. At least 10 founding members are required for local associations at the level of a municipality (*commune*), and at least 25 founding members from at least 12 different provinces (*wilayas*) for national

ones, whereas UN experts recommend that two founding members should be enough to form an association. In addition, the law prevents persons aged under 18 from founding or administering associations (Article 4), contrary to Algeria's obligations under the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child, which includes the right of children to freedom of association.

Furthermore, the new law imposes a burdensome registration process, involving associations holding initial meetings confirmed in writing by a bailiff, where statutes are adopted and executive officers appointed. Associations must submit to the authorities details of all members including their criminal records, certified copies of the statutes, proof of the association's address and minutes of the initial meeting. In addition, the law reinforces the powers of the government to monitor and interfere with the activities of associations, by requiring that they report to the government and publish in at least one nationally distributed daily newspaper all changes to their statutes and executive positions, and provide the authorities with copies of annual reports and the minutes of every general assembly meeting.

### **Drastic restrictions on foreign associations**

Law 12-06 sets out a separate and more restrictive regime for the registration and operation of foreign associations, which it defines as those based outside Algeria and which have been authorized to establish a presence in Algeria, or those based in Algeria but run fully or partially by foreigners (Article 59).

The process to authorize foreign associations involves three ministries (the Minister of Interior, who gives the agreement, and the Ministers of Foreign Affairs and the relevant Ministry for the association's area of competence, who give their opinions) and takes up to three months, compared with two months for national associations.

The burden of measures for registration and functioning is also greater for foreign associations, who must provide additional documents and information to the authorities beyond what is already required from national associations, further tightening control and interference of the authorities on foreign associations (Articles 62 and 66). Moreover, Article 63 severely restricts the criteria for granting permission to foreign associations to those whose mission is to implement pre-existing agreements between the governments of Algeria and their country of origin.

Article 65 further stipulates that a foreign association can be suspended or dissolved if it interferes in the host country's affairs, or if its activities by their nature impair "national sovereignty", the "established institutional order", national unity or the integrity of the national territory, public order and "good morals", or the "civilizational values of the Algerian people".

These provisions give the authorities impermissibly wide scope to restrict the work of foreign NGOs, including human rights organizations, and any foreign association deemed critical of the authorities or of the situation in Algeria could be barred from operating in the country. UN experts have recommended that national and foreign associations be subjected to the same set of rules.

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