



الجمهورية الجزائرية الديمقراطية الشعبية
REPUBLIQUE ALGERIENNE DEMOCRATIQUE ET POPULAIRE

**MISSION PERMANENTE D'ALGERIE
 AUPRES DE L'OFFICE DES NATIONS UNIES
 A GENEVE ET DES ORGANISATIONS
 INTERNATIONALES EN SUISSE**

**البعثة الدائمة للجزائر
 لدى مكتب الأمم المتحدة بجنيف
 والمنظمات الدولية بسويسرا**

N° : MPAG/ 378 /21

La Mission permanente de la République Algérienne Démocratique et Populaire auprès de l'Office des Nations Unies et des Organisations internationales en Suisse présente ses compliments au Bureau du Haut-commissariat des Nations Unies aux Droits de l'Homme, Service des procédures spéciales et, en référence à sa note n° AL DZA 5/2020 du 02 décembre 2020, concernant "des allégations de fermeture de lieux de culte et d'Eglises Protestantes d'Algérie (EPA), ainsi que des actes de discrimination à l'encontre des membres de la minorité chrétienne protestante", a l'honneur de lui faire parvenir, en annexe, une réponse complémentaire du Gouvernement algérien sur cette question.

La Mission permanente saurait gré au Secrétariat de bien vouloir inclure cette réponse ainsi que celle transmise le 08 janvier 2021 par Note verbale n°MPAG/360/20 dans la documentation concernant cette question, y compris la documentation écrite qui serait soumise au Conseil des Droits de l'Homme.

La Mission permanente de la République Algérienne Démocratique et Populaire auprès de l'Office des Nations Unies et des Organisations internationales en Suisse saisit cette occasion pour renouveler au Bureau du Haut-Commissariat des Nations Unies aux Droits de l'Homme, Service des procédures spéciales, l'assurance de sa haute considération



Genève, le 21 janvier 2021

Bureau du Haut-Commissariat des Nations Unies aux Droits de l'Homme
Service des Procédures Spéciales,
Palais Wilson, 52 Rue des Pâquis
CH-1201 Genève, Suisse

OHCHR REGISTRY

22 JAN. 2021

Recipients :.....S.P.D.....

c.c :

- Rapporteur spécial sur la liberté de religion ou de conviction,
- Rapporteur spécial sur le droit de réunion pacifique et la liberté d'association,
- Rapporteur spécial sur les questions relatives aux minorités.

(Translated from Arabic)

**People's Democratic Republic of Algeria
Permanent Mission of Algeria to the United Nations Office at Geneva
and the international organizations in Switzerland**

Response of the Government of Algeria to allegations concerning the closure of Protestant churches and places of worship

Geneva, 21 January 2021

Concerning the claims about the closure of Protestant churches and places of worship

Religious freedom in Algeria is a fundamental principle whose roots extend deep into the civilization and history of society. Algeria has embraced the various religions and cultures that have coexisted in the country. From Saint Augustine, one of the best known figures of the Christian religion, whose church is still standing in the city of Annaba in eastern Algeria, to Emir Abdelkader, who saved the lives of thousands of Christians during his exile in Syria and later became a prominent symbol of international humanitarian law, Algerian history is full of examples of coexistence and religious tolerance between different faiths, sects and cultures. Islam, which the Algerian people have chosen voluntarily and with conviction, had a serious and profound impact on establishing the principle of religious freedom. Indeed, we believe that the principles of Islam and its lofty human values provide a genuine guarantee that protects freedom of worship.

Travelling around Algeria, there are many examples to be found of churches and other places of worship located next to mosques and Qur'anic schools – an embodiment of the country's religious freedom and the coexistence of Muslims and Christians.

Building on this cultural legacy, the new contemporary Algeria has chosen to remain true to its fundamental principles of respecting public freedoms, and religious freedom in particular. Algerian laws stem from these convictions; the new Constitution (issued under Presidential Decree No. 20-442 of 30 December 2020 on the promulgation of the constitutional amendment, approved in the referendum of 1 November 2020, published in the Official Gazette of the People's Democratic Republic of Algeria) expressly states in this regard:

Article 35: "The State guarantees fundamental rights and freedoms. The purpose of the institutions of the Republic is to ensure the equality in rights and duties of all citizens, both men and women, by removing the obstacles that hinder human progress and impede the effective participation of all persons in political, economic, social and cultural life."

Article 37: "All citizens are equal before the law. They have the right to equal protection. There shall be no discrimination on the basis of birth, race, sex, opinion or any other personal or social condition or circumstance."

Article 51: "Freedom of opinion is inviolable. Freedom of worship shall be guaranteed and exercised in compliance with the law. The State guarantees the protection of places of worship from any political or ideological influence."

The incorporation of the principle of freedom of worship in the Algerian Constitution and in national laws and regulations, in particular Ordinance No. 06-02 bis of 28 February 2006, which establishes the terms and conditions for the practice of religious rites by non-Muslims, and Executive Decree No. 07-158 of 27 May 2007, which defines the composition and functioning of the National Commission for the Practice of Religions, is fully in line with the common principles and objectives established in international conventions and treaties. Article 18 of the International Covenant on Civil and Political Rights, for example, states:



“Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice.”

In the same context, however, article 19 of the Covenant states that freedoms may be subject to certain restrictions, but only such as are provided by law and are necessary for respect of the rights or reputations of others or for the protection of national security or of public order, public health or morals.

Accordingly, all citizens and foreign nationals residing in Algeria enjoy freedom of worship, with all the guarantees and protection provided by State institutions, in compliance with the laws of the Republic.

With respect to the laws of the Republic and subsequent regulatory decrees, we wish to draw attention to some of the provisions of Ordinance 06-02 bis of 28 February 2006 to show that not only are they in accordance with international conventions ratified by Algeria but they also reinforce the constitutional guarantees on freedom of worship.

Article 2: “The Algerian State, which adheres to Islam, guarantees freedom of worship within the framework of respect for the provisions of the Constitution, the provisions of this ordinance, laws and regulations in force, respect for public order, public morals and the fundamental rights and freedoms of others.

The State also guarantees tolerance and respect between different religions.”

Article 3: “Non-Muslim religious associations benefit from State protection.”

Article 4: “It is prohibited to use religious affiliation as a basis for discrimination against any person or group.”

Article 5 (3): “The State keeps an inventory of buildings designated for religious practice and affords them protection.”

Article 9: “A national committee for the practice of religions shall be established under the Ministry of Religious Affairs and Endowments, tasked with:

- Ensuring respect for freedom of worship.
- Addressing matters and concerns relating to religious worship.”

Replies

The allegations concerning the situation of Protestants in Algeria are false and unfounded. The public administration, which acts in accordance with the law, has a constant position when it comes to the regulation of places of worship, whether they are affiliated with Islam, Christianity or other religions. One of the clearest examples of this is the fact that the ministry responsible for religious affairs in Algeria is the Ministry of Religious Affairs and Endowments, and not the Ministry of Islamic Affairs and Endowments, although the vast majority of the Algerian people are Muslims. This ministry deals with both mosques and churches and provides them both with assistance and support.

In this context, we note that the Algerian State, through the Ministry of Religious Affairs and Endowments, also contributed, alongside local groups, to the reconstruction and restoration of the basilica of Notre Dame d’Afrique in Algiers, the Church of St. Augustine in Annaba and the chapel of Santa Cruz in Oran. In coordination with the Catholic Church, Algeria organized a beatification ceremony for victims killed barbarically during the national tragedy. The ceremony conveyed to the world the message of brotherhood, tolerance and peaceful coexistence in Algeria. The former head of the Catholic Church, Father Henri Teissier, chose Algeria as his final resting place. In execution of his will, following his death abroad, his body was sent to Algeria and officially received by the country’s public authorities. In the same vein, the Ministry of Religious Affairs and Endowments is committed to dialogue and constructive cooperation with all religious actors in Algeria, provided that they respect the laws of the Algerian Republic. The National Commission for the Practice of Religion has adopted the same position. It meets regularly under the chairmanship of the Minister of Religious Affairs and Endowments to address concerns related to the practice of religious rites.

It is therefore clear that the allegations addressed in the present responses were, once again, unfortunately not properly verified, and the necessary factual information and details were not collected. The parts of the communication describing actions taken by the Algerian authorities as discriminatory against a Christian minority were based on sources that lacked credibility and transparency, and were not entirely objective, as they relied on the statements of representatives of the Protestant Church of Algeria.

Information from reliable sources will reveal the real situation with regard to religious freedom in Algeria, where there is absolutely no question of discriminatory practices against a religious sect or violations or restrictions on religious freedom.

Concerning the allegations relating to the closure of 13 places of worship, based on the foregoing, it has to be concluded that the Protestant Church failed to respect administrative formalities, particularly legal and regulatory provisions governing religious worship.

The closure of 13 places open to the public without a permit – not 13 churches – was based in particular on Act No. 90-29 of 1 December 1990, as amended and supplemented, on planning and development, including:

- Failure to observe safety standards applicable to facilities open to the public (lack of safety measures relating to fire and other hazards).
- Construction of facilities not originally intended for worship without a permit.
- Conducting collective worship in places that are not open to the public and cannot be identified from the outside.
- Conversion of homes and commercial premises with no minimum safety requirements into places of worship, in violation of the law.
- Moreover, places of worship may only be opened subject to the approval of the relevant authorities at the local level and with the prior authorization of the National Commission for the Practice of Religions.
- As for previously closed unlicensed places of worship, three premises in different parts of the country were closed and later reopened. Those cases were brought before the courts, and judicial decisions were issued, including ordering the closure of the places of worship for failure to comply with building, planning and safety regulations.

It should be noted that, prior to starting the process of closing unlicensed places of worship, the authorities tried to work with the Protestant Church to reach a settlement in all of the cases, a process which lasted three years.

Representatives of the Protestant Association met with the administration, despite the fact that they did not have the appropriate status to do so under the Associations Act.

Specialized mixed provincial committees were also dispatched to inspect places in respect of which safety recommendations had been made, to be acted upon by the Association. Unfortunately, there was no response, and after all amicable steps had been exhausted, procedures were initiated to close down the premises in order to preserve the lives and safety of citizens.

The reluctance and intransigence of the Protestant Church in engaging in the settlement process and complying with the committees' recommendations was noted.

Despite the notifications that were sent to the Church urging it to comply with the recommendations made, unfortunately, they failed to submit the necessary paperwork relating to the settlement and the reasons for this remain unknown. Indeed, the only paperwork that was submitted to the Ministry of the Interior by the Church was related to the request to bring the association into line with the Associations Act (No. 06-12). A body of recommendations had been recorded in relation to the file; accordingly, a number of meetings were held to enable the association to regularize its status after all the technical issues had been addressed. However, the association once again reneged on its commitments to the administration and failed to give any response. It simply repeated that it had an

acknowledgement of receipt for the file it had submitted to bring the association in line with the law.

Thus, it is clear that the allegations are unfounded. The association does not wish to comply with the legal requirements and failed to submit to the competent public authorities the relevant financial and narrative reports and did not disclose its sources of funding in a transparent manner. Also, it has not been determined what property the association owns, and therefore the status of the Protestant association is not in conformity with the applicable law.

The actions taken by the Algerian authorities are not discriminatory, as the process of opening, running and regulating places of worship and the practice of religious rites must be carried out in compliance with the laws that ensure the safety and protection of those who visit places of worship, be they mosques, churches or other places of worship.

The process for opening mosques, which are subject to Executive Decree No. 13-377 of 9 November 2013 on mosques, can only take place after the applicable legal and regulatory procedures have been completed. Mosques have been closed for failing to comply with preventive and safety measures in the field of construction and planning.

The criminal legal provisions related to preaching in places of worship without a permit apply to mosques as well other places of worship for non-Muslims, without discrimination. Article 13 of Ordinance No. 06-02 bis of 28 February 2006 states: "Anyone who performs a sermon inside a building intended for the practice of religious rites without being appointed, accredited or authorized by the competent religious authority in the country, as well as by the competent Algerian authorities, shall be punished by imprisonment of between 1 and 3 years and a fine of 100,000 to 300,000 dinars."

There is a similar provision in article 87 bis 10 of the Criminal Code, which states:

"Anyone who performs or attempts to perform a sermon in a mosque or in any other public place of worship without being appointed, accredited or authorized to do so by the competent public authority shall be punished by imprisonment of between 1 and 3 years and a fine of between 10,000 and 100,000 dinars.

Anyone who commits, by means of a sermon or any other act, acts contrary to the noble mission of the mosque or that may prejudice the cohesion of society or who applauds or promotes the actions referred to in this section shall be punished by imprisonment of between 3 and 5 years and a fine of 50,000 to 200,000 dinars."

This is the best indication of the fairness and consistency of the law, despite the fact that provisions appear in more than one text owing to the nature of the subject matter.

The decision to open places of worship applied to mosques and churches alike

When the public authorities decided to take measures to gradually open public activities and facilities while adhering to the health protocols adopted for the prevention of the coronavirus disease (COVID-19) pandemic, the gradual opening of places of worship was approved, without exception, to include mosques and churches without discrimination, as stipulated in the presidential statement of 3 August 2020 (meeting to assess the general situation in the country in light of developments associated with the COVID-19 pandemic).

The public authorities have allowed the gradual reopening of places of worship, with the first stage being restricted to major mosques and a number of churches, with the obligation to respect physical distancing, wear a face mask and adhere to the preventive health protocol.

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AUPRES DE L'OFFICE DES NATIONS UNIES
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البعثة الدائمة
لدى مكتب الأمم المتحدة بجنيف
والمنظمات الدولية بسويسرا

رد الحكومة الجزائرية على الادعاءات بخصوص غلق الكنائس
المسيحية البروتستانتية و أماكن ممارسة شعائرها الدينية

جنيف 21 يناير 2021

بخصوص

أدعاءات خلق الكنائس المسيحية البروتستانتية

و أماكن ممارسة شعائرها الدينية

إن الحرية الدينية في الجزائر مبدأ أصيل، تمتد جذوره في أعماق حضارة المجتمع وتاريخه، فالجزائر وطن احتضن مختلف الديانات والثقافات التي تعايشت فيه، فمن القديس "أوغسطين" أحد أشهر رجالات الديانة المسيحية التي ما تزال كنيسته قائمة ومشيدة في مدينة عنابة بالشرق الجزائري إلى "الأمير عبد القادر" الذي أنقذ آلاف الأرواح من المسيحيين في منفاه بسوريا، حتى صار رمزا بارزا من رموز القانون الدولي الإنساني، فسجل تاريخ الجزائر حافل بصفحات التعايش والتسامح الديني بين مختلف الديانات والمذاهب والثقافات، وكان للدين الإسلامي - الذي اختاره الشعب الجزائري عن طوعية وقناعة -

الأثر البالغ والعميق في تكريس مبدأ الحرية الدينية، بل إننا نعتقد أن مبادئ الإسلام وقيمه الإنسانية السامية هي الضمانة الحقيقية الكبرى التي تحمي حرية ممارسة الشعائر الدينية،

و خير مثال يمكن سرده في هذا الصدد، أن المتجول في أنحاء الجزائر يجد أمثلة عديدة لتلك الكنائس ودور العبادة الأخرى التي تجاور المساجد وزوايا التعليم القرآني، في صورة تتجسد فيها الحرية الدينية والتعايش بين المسلمين والمسيحيين .

و انطلاقا من هذا الرصيد الحضاري، اختارت الجزائر المعاصرة الجديدة أن تبقى وفية لمبادئها الأصلية في تقديس الحريات عامة واحترام الحرية الدينية على وجه الخصوص، فنبتت قوانينها من هذه القناعات، حيث تجد القانون الأساسي (الدستور الجديد الصادر بموجب المرسوم الرئاسي رقم 20- 442 المؤرخ في 15 جمادى الأولى عام 1442 الموافق 30 ديسمبر سنة 2020 و المتعلق بإصدار التعديل الدستوري، المصادق عليه في استفتاء أول نوفمبر سنة 2020، في الجريدة الرسمية للجمهورية الجزائرية الديمقراطية الشعبية) ينص صراحة في هذا الشأن، على ما يأتي:

المادة 35: ((تضمن الدولة الحقوق الأساسية والحريات.

تستهدف مؤسسات الجمهورية ضمان مساواة كل المواطنين والمواطنات في الحقوق والواجبات بإزالة العقبات التي تعوق تفتح شخصية الإنسان، وتحول دون مشاركة الجميع الفعلية في الحياة السياسية، والاقتصادية، والاجتماعية، والثقافية)).

المادة 37: ((كل المواطنين سواسية أمام القانون. ولهم الحق في حماية متساوية. ولا يمكن أن يُتذرع بأي تمييز يعود سببه إلى المولد، أو العرق، أو الجنس، أو الرأي، أو أي شرط أو ظرف آخر، شخصي أو اجتماعي)).

المادة 51: ((لا مساس بحرمة حرية الرأي.

حرية ممارسة العبادات مضمونة وتمارس في احترام القانون

تضمن الدولة حماية أماكن العبادة من أي تأثير سياسي أو إيديولوجي)).

إن المكاسب التي تم تحقيقها من خلال تكريس مبدأ ممارسة حرية العبادة في الدستور الجزائري و من خلال تقريرها نصا في القوانين و اللوائح التنظيمية لوطنية ، لاسيما أحكام الأمر رقم 06 - 02 مكرر المؤرخ في 29 محرم عام 1427 الموافق 28 فبراير سنة 2006 الذي يحدد شروط و قواعد ممارسة الشعائر الدينية لغير المسلمين و أحكام المرسوم التنفيذي رقم 07- 158 المؤرخ في 10 جمادى الأولى عام 1428 الموافق 27 مايو سنة 2007 الذي يحدد تشكيلة اللجنة الوطنية للشعائر الدينية لغير المسلمين وكيفية عملها. تتناغم غايتها تماما مع المبادئ و الأهداف المشتركة التي ثبتت مضامينها المواثيق و المعاهدات الدولية، فتجد العهد الدولي الخاص بالحقوق المدنية و السياسية ينص في مادته 18 على : ((لكل إنسان الحق في حرية الفكر و الوجدان و الدين و تشمل حرّيته في أن يدين بأي دين و حرّيته في اعتناق أي دين أو معتقد يختاره)).

غير أنه وفي نفس السياق تنص المادة 19 على : ((...وعلى ذلك يجوز إخضاع الحريات لبعض القيود شريطة أن تكون محددة بنص القانون و أن تكون ضرورية لاحترام النظام العام و الصحة العامة و الآداب العامة و احترام حقوق الآخرين أو سمعتهم)).

ولذلك، فإن كل المواطنين والرعايا الأجانب المقيمين في الجزائر يتمتعون بحرية ممارسة عبادتهم، مع وجود كل الضمانات والحماية التي توفرها مؤسسات الدولة، في ظل احترام قوانين الجمهورية،

و على ذكر قوانين الجمهورية و ما تبعها من مراسيم تنظيمية وطنية، نذكر بعض أحكام الأمر رقم 06 - 02 مكرر المؤرخ في 29 محرم عام 1427 الموافق 28 فبراير سنة 2006 و المذكور أعلاه، لنبين بأن هذه الأحكام، فضلا على أنها منسجمة و المواثيق الدولية المصادق عليها، فإنها كذلك تعزز ما قرره الدستور في اتجاه توفير ضمانات ممارسة حرية العبادة .

المادة 2: تضمن الدولة الجزائرية التي تدين بالإسلام حرية ممارسة الشعائر الدينية في إطار احترام أحكام الدستور وأحكام هذا الأمر والقوانين والتنظيمات السارية المفعول واحترام النظام العام والآداب العامة وحقوق الآخرين وحياتهم الأساسية.

كما تضمن الدولة التسامح والاحترام بين مختلف الديانات.

المادة 3: تستفيد الجمعيات الدينية لغير المسلمين من حماية الدولة .

المادة 4: يُحظر استعمال الانتماء الديني كأساس للتمييز ضد أي شخص أو جماعة.

المادة 5: - الفقرة 3: تخضع البنايات المخصصة لممارسة الشعائر الدينية للإحصاء من طرف الدولة وتستفيد من حمايتها.

المادة 9: تنشأ لدى الوزارة المكلفة بالشؤون الدينية والأوقاف لجنة وطنية للشعائر الدينية ، تتولى على الخصوص ما يأتي:

- السهر على احترام حرية ممارسة الشعائر الدينية ،

- التكفل بالشؤون والانشغالات المتعلقة بممارسة الشعائر الدينية.

عناصر الرد المعتمد عليها:

إن الادعاءات المتعلقة بحالة المسيحيين البروتستانتين في الجزائر ، إدعاءات باطلة لا أساس لها فالإدارة التي تخضع للقانون تقف على مسافة واحدة من مسألة تنظيم دور العبادة سواء أكانت تابعة للدين الاسلامي أو المسيحية أو غيرهما ،

ومن أوضح الأمثلة على ذلك أن الوزارة المكلفة بتسيير الشأن الديني في الجزائر تسمى "وزارة الشؤون الدينية والأوقاف" ، وليس وزارة الشؤون الإسلامية والأوقاف ، رغم أن الغالبية العظمى للشعب الجزائري تدين بالإسلام ، وهذه الوزارة كما تُعنى بالمساجد وتقدم لها الإعانات ، فإنها أيضا تُعنى بالكنائس وتقدم لها الإعانات والدعم.

في هذا السياق، ننوه بأن الدولة الجزائرية أسهمت من خلال وزارة الشؤون الدينية والأوقاف كذلك الجماعات المحلية في ترميم وإحياء تهيئة كنيسة "السيدة الإفريقية" في الجزائر لعاصمة، وكنيسة "القديس أوغستين" في عنابة، وكنيسة "سانتا كروز" في وهران، وأن الجزائر نظمت مراسيم "التطويب" بالتنسيق مع الكنيسة الكاثوليكية بخصوص الضحايا الذين اغتالتهم اليد الهمجية أيام المأساة الوطنية، في مشهد أظهر للعالم بأسره رسالة الأخوة و التسامح و العيش معا بسلام على أرض الجزائر، كما أن رئيس الكنيسة الكاثوليكية السابق الأب هنري تيسي اختار الجزائر مثواه الأخير تنفيذا لوصيته بعد أن وفاته المنية خارجها، إذ حظي جثمانه باستقبال رسمي من قبل السلطات العمومية في البلاد. كما أنه و في نفس السياق، وزارة الشؤون الدينية والأوقاف ملتزمة دائما بفتح أبواب الحوار والتعاون البناء مع كل الفعاليات الدينية في الجزائر، شريطة احترامها لقوانين الجمهورية الجزائرية، و هو نفسه الموقف الذي تتبناه اللجنة الوطنية للشعائر الدينية لغير المسلمين التي تلتئم بشكل دوري تحت رئاسة وزير الشؤون الدينية والأوقاف من أجل التكفل بالانشغالات المتعلقة بممارسة الشعائر الدينية.

و لذلك يظهر جليا بأن الادعاءات محل الردود الحالية لم تنل للأسف ككل مرة ما يكفي من عملية التدقيق واستجماع المعلومات والتفاصيل اللازمة للوقائع كما جرت، إذ أن صياغة فقرات التقرير التي تصف الإجراءات المبادر بها من خلال السلطات الجزائرية بالتمييزية ضد أقلية مسيحية، تمت بناء على مصادر تفتقد للمصداقية والشفافية، و لم تكن على أساس موضوعي بالمرّة، لأنها تعتمد على أقوال ممثلي الكنيسة البروتستانتية بالجزائر. ولذلك نؤكد بأن الالمام بجميع العناصر المستقاة من مصادر موثوقة سيعمل، لا محالة على إزاحة الستار على الواقع الحقيقي للحريات الدينية في الجزائر، حيث لا مجال إطلاقا للحديث عن ممارسات تتعلق بالتمييز ضد طائفة أو الانتهاك والتضييق على الحرية الدينية.

بناء على ما سبق، يجب الاعتماد على الجوانب الإدارية التي لم يتم احترامها من قبل الكنيسة البروتستانتية فيما يتعلق بما تدعيه من غلق لـ 13 محلا، وفي ذلك، تركيز خاصة على عدم الالتزام بالنصوص القانونية والتنظيمية التي تضبط الشعائر الدينية.

❖ إن عملية غلق 13 مكان مفتوح للجمهور بدون ترخيص وليس 13 كنيسة يعتمد على وجه الخصوص على القانون رقم 90- 29 المؤرخ في 1 ديسمبر 1990 والمتعلق بالتهيئة والتعمير، المعدل والمتمم: وفي ذلك :

- عدم مراعاة معايير السلامة للمنشآت التي تستقبل الجمهور (انعدام كامل للتدابير الأمنية ضد الحريق والفرع).

- القيام بعملية بناء لمنشآت غير مخصصة أصلا لممارسة العبادة بدون رخصة،

- القيام بممارسة جماعية للعبادة في أماكن غير مفتوحة للجمهور ولا يمكن التعرف عليها من الخارج.

- تم تسجيل تحويل منازل ومحلات ذات طابع تجاري تنعدم فيها أدنى شروط السلامة إلى أماكن عبادة دون احترام للقوانين،

- وفضلا عن ذلك فإن أي مكان للعبادة لا يمكن فتحه إلا بعد موافقة السلطات المعنية على المستوى المحلي وإبداء الرأي والترخيص المسبق من قبل اللجنة الوطنية للشعائر الدينية لغير المسلمين.

- بالنسبة لأماكن العبادة غير المرخصة التي تم غلقها سلفا، ويتعلق الأمر بثلاثة (3) محلات على مستوى التراب الوطني ثم أعيد فتحها، تم اللجوء بخصوصها إلى مرفق العدالة، حيث تم استصدار أحكام قضائية تتضمن الغلق بسبب عدم احترام ضوابط البناء والعمران وسلامة المحلات.

❖ وما يجدر التنويه به أنه قبل الشروع في عملية غلق الأماكن المفتوحة للجمهور بدون ترخيص تم تبني مقاربة من قبل السلطات العمومية بمرافقة الكنيسة البروتستانتية من أجل الوصول إلى تسوية كل الحالات وقد دامت المرافقة 3 سنوات.

وقد تم فيها استقبال ممثلي الجمعية البروتستانتية على مستوى الإدارة بالرغم أن من هؤلاء الممثلين لم تكن وضعيتهم محل تسوية في ضوء قانون الجمعيات.

كما تم إيفاد لجان ولائية مختلطة متخصصة لمعاينة الأماكن حيث قدمت توصيات السلامة التي يتعين على الجمعية مراعاتها، لكن للأسف لم تكن هنالك استجابة، فبعد استنفاد جميع الخطوات الودية تمت مباشرة إجراءات الغلق حفاظا على حياة وسلامة المواطنين

❖ تسجيل عزوف وتعنت من قبل الكنيسة البروتستانتية للانخراط في مسار التسوية (الامتنال لتوصيات اللجان المختلطة).

حيث وبالرغم من الإشعارات التي تم تبليغها للكنيسة من أجل حثها على الالتزام بالملاحظات المسجلة إلا أنه وللأسف لم يتم إيداع أي ملف تسوية آنذاك وتبقى الأسباب مجهولة،

والشيء بالشيء يذكر الملف الوحيد الذي تم إيداعه من قبل الكنيسة يتعلق بطلب مطابقة الجمعية مع قانون الجمعيات 12-06 وذلك على مستوى وزارة الداخلية أين سجلت مجموعة من الملاحظات على الملف وتم عقد تبعا لذلك جملة من اللقاءات لتمكين الجمعية من مطابقة وضعيتها بعد رفع جميع التحفظات التقنية، لكن الجمعية تنصلت مرة أخرى من التزاماتها اتجاه الإدارة بحيث لم تبد أية استجابة واكتفت في كل مرة بالقول بأن لديها وصل إيداع ملف طلب المطابقة مع القانون.

وبذلك يظهر جليا بأن الادعاءات غير مؤسسة، فالجمعية لا تريد أن تستجيب للاشتراطات القانونية، حيث لم تسلم للسلطات العمومية المختصة التقارير المالية والأدبية ولم تبين مصادر تمويلها بكل شفافية، كما لم تحدد الأملاك التي تحوزها، ولذلك وضعية الجمعية البروتستانتية لا يمكن أن تكون مطابقة للقانون الجاري به العمل.

❖ الإجراءات المتخذة من قبل السلطات الجزائرية ليس لها طابع تمييزي ذلك أن عملية فتح دور العبادة وتسييرها وتنظيمها، وممارسة الشعائر الدينية، ينبغي أن تتم في ظل احترام القوانين التي تحرص على سلامة وحماية الذين يرتادون دور العبادة، سواء كانت مساجد أو كنائس أو غيرها من أماكن العبادة،

فعملية فتح المساجد التي تخضع لأحكام القانون الأساسي للمسجد تحت رقم 13- 377 المؤرخ في 9 نوفمبر سنة 2013 ، لا يمكن أن تتم إلا بعد استيفاء الإجراءات القانونية و التنظيمية المطبقة، وقد سجلت حالات غلق لمساجد لعدم مطابقتها للتدابير الوقائية والسلامة في مجال البناء والتعمير،

- و في إطار آخر، فإن الأحكام القانونية الجزائرية المتعلقة بأداء خطبة داخل دور العبادة بدون ترخيص تخص المساجد كما تخص باقي دور العبادة لغير المسلمين، دون تمييز، فنجد: المادة 13 من الأمر رقم 06 - 02 مكرر المؤرخ في 29 محرم عام 1427 الموافق 28 فبراير سنة 2006 و المذكور أعلاه، التي تنص على : " يعاقب بالحبس من سنة (1) إلى ثلاث (3) سنوات وبغرامة 100.000 دج إلى 300.000 دج كل من يؤدي خطبة داخل البنايات المعدة لممارسة الشعائر الدينية دون أن يكون معينا أو معتمدا أو مرخصا له من طرف سلطته الدينية المختصة أو المعتمدة في التراب الوطني وكذا من قبل السلطات الجزائرية المختصة.

ونجد أيضا و بالتوافق تماما في قانون العقوبات المادة 87 مكرر 10 التي تنص على: المادة 87 مكرر 10: يعاقب بالحبس من سنة (1) إلى ثلاث (3) سنوات وبغرامة 10.000 دج إلى 100.000 دج كل من أدى خطبة أو حاول تأديتها داخل مسجد أو في أي مكان عمومي تقام فيه الصلاة دون أن يكون معينا أو معتمدا من طرف السلطة العمومية المؤهلة أو مرخصا له من طرفها للقيام بذلك.

وبعاقب بالحبس من ثلاث (3) سنوات إلى خمس (5) سنوات وبغرامة 50.000 دج إلى 200.000 دج كل من أقدم، بواسطة الخطب أو بأي فعل، على أعمال مخالفة للمهمة النبيلة للمسجد أو يكون من شأنها المساس بتماسك المجتمع أو الإشادة بالأفعال المشار إليها في هذا القسم.

وهو خير دليل على الوجه الواحد العادل للقانون، حتى وإن كانت أحكامه متواجدة في أكثر من نص بحكم طبيعة الموضوع.

قرار فتح دور العبادة شمل المساجد و الكنائس على حد سواء:

حينما قررت السلطات العمومية اتخاذ إجراءات الفتح التدريجي للأنشطة و المرافق العمومية مع الالتزام بالبروتوكول الصحي المعتمد للوقاية من جائحة كوفيد 19، تم إقرار الفتح التدريجي لدور العبادة، دون استثناء، بحيث شمل القرار المساجد والكنائس دون تمييز وهو ما تضمنه بيان رئاسة الجمهورية المؤرخ في 03 أوت 2020 (الاجتماع المخصص لتقييم الوضع العام في البلاد في ضوء التطورات المرتبطة بجائحة كوفيد 19)

وقد سمحت السلطات العمومية بإعادة فتح دور العبادة بشكل تدريجي على أن ينحصر الأمر في المرحلة الأولى في كبرى المساجد وعدد من الكنائس مع احترام شرطي التباعد الجسدي وارتداء الكمامة اللازمين والالتزام بالبروتوكول الصحي الوقائي .