

*(Translated from Arabic)*

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

## **Response of the Government of Algeria to the questions raised by the United Nations Human Rights Council special procedures mandate holders concerning the case of Yacine Mebarki**

### **1. Information concerning Yacine Mebarki's case**

#### **\* Events in which the individual is implicated**

Investigations were opened after information was received that the individual in question was encouraging and publicly promoting atheism by holding meetings in cafes and organizing gatherings at which he incited hatred and change of Islam and insulted and mocked God and his Messenger and the rituals of Islam. In addition, on his social networking accounts, he posted several publications offensive to Islam and propaganda videos and articles calling for questioning and hostility towards Islam and Muslims and inciting hatred towards them. He also posted images aimed at undermining the faith of Muslims and inciting them to change religion and become atheists, as well as inflammatory publications aimed at sowing hatred and animosity between Amazighs and Arabs.

On 30 September 2020, the suspect was arrested and his home was searched on the basis of a search warrant. During the search, a torn Qur'an with burn marks on its pages and two empty bullets of a .184-caliber weapon were seized.

#### **\* Legal measures taken in the case**

The individual in question was prosecuted by the competent judicial authorities for the misdemeanours of possession of category-1 war ammunition without a licence from the legally qualified authority, desecrating the Holy Qur'an, mocking Islam and the Prophet through social media sites, inciting and pressuring Muslims to change their religion, distributing and publishing audiovisual recordings aimed at undermining the faith of Muslims, encouraging, promoting and inciting hatred and discrimination against a group of persons on the basis of race and national origin in accordance with articles 3 to 31 of Ordinance 97-06 concerning military equipment, weapons and ammunition, articles 160 and 144 bis 2 of the Penal Code, article 11 (1) and (2) of Ordinance 06-03, which sets out the conditions and rules for the exercise of religions other than Islam, and article 295 bis 1 of the Penal Code.

On 8 October 2020, he was acquitted of the misdemeanour of desecrating the Holy Qur'an and convicted of the misdemeanours of possession of category-1 ammunition without a licence from the legally qualified authority, incitement and pressure to force Muslims to change their religion, distribution and publication of audiovisual recordings aimed at undermining the faith of Muslims, and mocking Islam and the Prophet. The rest of the charges were classified under the misdemeanour of managing and supervising an electronic account that disseminates information, drawings and images to promote ideas and incite discrimination and hatred in society. He was sentenced to 10 years' imprisonment and a 10,000,000 DZD fine.

After the judgment was appealed, the Criminal Chamber ruled as follows on 25 November 2020:

1. It upheld the appealed ruling when it came to the misdemeanour of desecrating the Qur'an, but overturned it and ordered a retrial of the accused for the misdemeanours of incitement and pressure to compel Muslims to change their religion and distributing and publishing audiovisual recordings with the aim of undermining the faith of Muslims.



2. It upheld the conviction for the misdemeanours of possession of category-1 military ammunition without a licence from the legally qualified authority and offending the precepts of Islam and the Prophet via social media. It overturned the classification of charges and ruled that he should instead be convicted of the misdemeanour of encouraging, promoting and inciting hatred and discrimination against a group of people on the basis of race and national origin. It amended the sentence, reducing it to 1 year's imprisonment and a 50,000 DZD fine.

On the same date – 25 November 2020 – an appeal against this decision was filed.

**2. Concerning the extent to which the provisions of Algerian laws on desecration of the Qur'an, apostasy and discrimination are consistent with the international human rights conventions ratified by Algeria with respect to the peaceful exercise of freedom of religion and belief and freedom of opinion and expression**

Within the framework of meeting the international obligations of Algeria in the field of human rights, especially those related to the peaceful exercise of freedom of religion and belief and freedom of opinion and expression, Algerian laws contain provisions that are consistent with the international conventions ratified in this field. This is reflected in the fact that these freedoms have been established as constitutional principles. Article 42 of the Algerian Constitution states: "Freedom of conscience and freedom of opinion shall be inviolable. Freedom of worship shall be guaranteed in compliance with the law."

Accordingly, Ordinance 06-03 of 28 February 2006 was issued, defining the conditions and rules for the practice of religious rites by non-Muslims. It includes regulatory provisions through which the Algerian State, which adheres to Islam, guarantees the freedom to practise religious rites of other religions without discrimination and without prejudice to Islam. It reflects tolerance between different religions, and in this context establishes penalties for those who violate the provisions of the ordinance.

Articles 144 bis 2, 160 and 160 ter of the Criminal Code also establish penalties for anyone who offends the Prophet or any of God's messengers or mocks the precepts of Islam, whether in writing, drawing, through a declaration or by any other means, as well as anyone who deliberately and publicly destroys, damages, defiles or desecrates the Qur'an or deliberately vandalizes, destroys or desecrates places of worship.

**3. Concerning criminal prosecutions and detention of persons accused of supporting the HIRAK popular movement and their conformity with the international human rights obligations of Algeria**

The Algerian State, through its institutions and interests, has the task of maintaining and controlling public security and order so as to ensure stability. In the event of an attempt to disrupt public order in any way, it may take appropriate measures as required by the laws of the Republic. The law is applied and the perpetrators of offences against public order are prosecuted and punished in accordance with the laws in force by the competent judicial authorities, which alone have the power to prosecute and punish the perpetrators of such acts and those who attempt them, without any interference whatsoever.

**4. Concerning the measures taken by the Algerian Government to ensure the protection and promotion of the rights to freedom of opinion, expression, religion and belief, including among atheists, and the protection of the identity and culture of the Amazigh people**

Algeria has always sought to protect and promote freedom of opinion, expression, religion and belief by establishing them as constitutional principles. To consolidate this endeavour, the issue is covered in a special law, Ordinance 06-03 of 28 February 2006, which

sets out the conditions and rules for the practice of religious rites by non-Muslims, as well as the provisions of the Penal Code (articles 144 bis 2, 160 and 160 ter).

As for protecting the identity of the Amazigh people, Algeria has worked to incorporate Amazigh culture as part of Algerian history. Article 4 of the Algerian Constitution states that: “Tamazight is also a national and official language. The State works for its promotion and development in all its linguistic varieties in use throughout the national territory.” The Amazigh New Year has also been made a paid national holiday.

In the same context, Act No. 20/05 of 28 April 2020 on the prevention and combating of discrimination and hate speech prohibits any discrimination, exception, restriction or preference based on gender, race, colour, descent, national or ethnic origin, language, geographical affiliation, disability or state of health that aims at or entails the disruption or obstruction of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal footing in the political, economic, social and cultural spheres and other areas of public life, as well as all forms of expression that propagate, encourage or justify discrimination. It also prohibits contempt, insults, hostility, hatred or violence directed at a person or group of people on the basis of sex, race, colour, descent, national or ethnic origin, language, geographical affiliation, disability or health status.

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