

President of the Republic in the Algerian constitutional amendment 2016

رئيس الجمهورية في التعديل الدستوري للجزائر لسنة 2016

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Abstract:

Among the most important topics covered by the constitutions of most countries is the organization of their three executive, legislative and judicial powers. The importance of these powers is demonstrated by the place assigned to them by the constitution, both in terms of their place in the constitutional document and in terms of membership conditions in them, as well as the functions they exercise.

This study comes to show the importance of one of these powers, which is the executive power, by clarifying the place of the President of the Republic in the last 2016 Constitutional Amendment, and this is by identifying the most important constitutional revisions included in relation with the head of the Executive power both in terms of the conditions to be eligible for the presidency, the presidential vacancy , as well as the functions assigned to him in ordinary and extraordinary circumstances.

key words: Executive power – Constitutional amendment – President of the Republic – Election – Presidential term .

: الملخص

من بين أهم المواضيع التي تشملها دساتير أغلب الدول هو تنظيم سلطاتها الثلاث التنفيذية، التشريعية والقضائية. وتبين أهمية هذه السلطات من خلال المكانة التي خصصها لها الدستور سواء من حيث ترتيبها في الوثيقة الدستورية ومن حيث شروط العضوية فيها وكذا المهام التي تمارسها. تأتي هذه الدراسة لتبيان أهمية إحدى هذه السلطات وهي السلطة التنفيذية من خلال تبيان مكانة رئيس الجمهورية في التعديل الدستوري الأخير لسنة 2016، ويكون ذلك من خلال تحديد أهم المواضيع التي شملها التعديل الدستوري بالنسبة لرئيس السلطة التنفيذية سواء من حيث شروط الترشح للرئاسة، حالة شغور منصب رئيس الجمهورية وكذا المهام الموكلة له في الظروف العادية وغير العادية .

الكلمات المفتاحية : السلطة التنفيذية- التعديل الدستوري- رئيس الجمهورية – الانتخاب

– العهدة الرئاسية.

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Introduction:

The constitution of the People's Democratic Republic of Algeria of the year 2016¹ is the fundamental law of Algeria, the contents of the constitution are Preamble, four titles and transitory provisions.

The first title named the general principles governing the Algerian society², The second title concern the organization of powers divided into three chapters which are, the executive power represented by the President of the Republic, the Prime Minister and Government, the legislative power a parliament consisting of two chambers the People's National Assembly and Council of Nation, and the Judicial Power consisting of The Supreme Court³, the Council of State⁴ and The Court of Jurisdictional Conflicts⁵.

The third title, concern the supervision, election observation and consultative institutions, and the last title the fourth one is on constitutional amendment, and the constitution is ended by the transitory provisions.

The importance of the subject

The first thing that we notice about the executive power is its place in the constitution, which has been always and since the 1996 Constitution in the first chapter of the title two concerning the organization of powers, which proves its place in the constitution.

The President of the Republic occupies an important position due to the wide powers that he enjoys compared to the powers of the Prime Minister and the powers of the legislative power. This study comes to highlight the superiority of the President of the Republic in the constitution, despite some amendments related to the conditions for his candidacy or the exercise of his powers.

The problem of the study:

The question that we could ask is what are the most important amendments and revisions concerning the President of the Republic in the 2016 constitutional amendment?

Methodology used:

In this study, we will follow the method of analytical legal research by studying the multiple articles of the Constitution.

General Division of the study:

The topic will be dealt with through two sections, the first section is about the conditions to be eligible for the presidency and exercise the functions: it consists about the new conditions to be eligible for the Presidency, the presidential term (**and liability during the term**) and vacancy, and the case of resignation or death of the president.

The second section is about the functions of the President of the Republic: under normal and unusual circumstances.

Section I: The conditions to be eligible for the presidency and exercise the functions

The Executive Power is represented by the President of the Republic, The Prime Minister and Government. The President is the Head of State; he shall embody the unity of the Nation, be the guarantor of the Constitution. He shall embody the State within the country and abroad and shall reserve the right to address the Nation directly⁶.

And the President of the Republic shall be elected by universal, direct and secret suffrage and the election shall be won by an absolute majority of votes cast⁷. He shall exercise the supreme magistracy within the limits defined by the Constitution.⁸

The 2016 Constitutional Amendment introduced new conditions to be eligible for the presidency **(A)**, and the presidential term and its limits **(without any changes about the liability of the President)**, and the case of resignation or death of the president **(B)**.

A) The conditions to be eligible for the presidency:

As we notice that new article 87 of the 2016 Constitutional Amendment introduced new conditions for the candidature to the Presidency about the nationality or citizenship of the candidate, his or her mother and father and his or her spouse's nationality, and about the permanent residence.

So to be eligible for the Presidency of the Republic, the candidate shall:

- **not have acquired a foreign nationality;**
- have, solely, the native Algerian nationality **and certify the native Algerian nationality of the father and mother;**
- be Muslim;
- be forty (40) years old on Election Day;⁹
- enjoy full civil and political rights;
- prove the **exclusive native Algerian nationality of the spouse**¹⁰;
- **justify a permanent residence only in Algeria for a minimum of ten (10) years preceding the submission of the candidacy;**
- justify his participation in the Revolution of 1 November 1954 for the candidates born before July 1942;
- justify the non-involvement of the parents of the candidate born after July 1942, in hostile acts against the Revolution of 1st November 1954;

– submit a public declaration of his movable and immovable property, both inside and outside Algeria.

Other conditions shall be prescribed by an organic law.¹¹

We notice comparing with the 1996 Constitution that the new revisions about the conditions to be eligible for the presidency concerned four important subjects:

The candidate for the presidency must prove that he has not acquired a foreign nationality, and must certify native Algerian nationality of the father and mother; prove the exclusive native Algerian nationality of the spouse, and justify a permanent residence only in Algeria for a minimum of ten (10) years preceding the submission of the candidacy¹².

These new conditions came to reinforce the place of the President in the constitution and to prove the loyalty of the candidate for the presidency of the Republic towards the country.

B) The rules to exercise the functions of the President of the Republic:

Most of Constitutions introduced some rules to exercise the functions of the president, We will see in the following subtitle, how the 2016 Constitutional Amendment has introduced some revisions about the presidential term (without any changes about his liability system) **(1)**, vacancy and the case of resignation or death of the President**(2)**.

1 - The presidential term and liability:

One of the most important revisions of 2016 Constitutional Amendment is the presidential term, it shall be (5) five years; it is the head of state term length, the President of the Republic may be re-elected for once. And it is the Head of state term limits.¹³

Comparing with the 1996 Constitution and its revision in 2008 we notice that the 2016 Constitutional Amendment came back to the same presidential term of the 1996 Constitution, the presidential term was five (5) years, And the President of the Republic may be re-elected once. (Article 74 of the 1996 Constitution/ Article 88 of the Constitutional Amendment), unlike the revision of 2008 where the presidential term was not limited, the President of the Republic may be re-elected¹⁴.

What is wrong with the constitutional amendment of 2016 related to the presidential term, although it is more correct than its predecessor for the year 2008, as it is permissible to take up only two terms which guarantee the rotation of power, that the amendment did not specify whether the two

presidential terms are consecutive or can be separate so that the meaning of the article does not contain any ambiguity.

And to start the exercise of the functions the President of the Republic shall take an oath before the people and in the presence of the high authorities of the Nation, during the week following his election. And he shall take office after being sworn in.¹⁵

The oath has been introduced as a condition before taking office in all Algerian constitutions; the oath is the same since the constitution of 1996, it shall be taken by the President of the Republic in Arabic language in the following term:

“In the Name of Allah the most Merciful the most Compassionate. Faithful to the great sacrifices and to the memory of our martyrs as well as to the ideals of the eternal November Revolution, I do solemnly swear by Allah the Almighty that I shall respect and glorify the Islamic religion, defend the Constitution, see to the continuity of the State and provide the necessary conditions for the normal functioning of the reinforcement of the democratic process, respect the free choice of the people as well as the institutions and laws of the Republic, preserve the integrity of the national territory, the unity of the people and the nation, protect the freedoms and the fundamental human and citizen’s rights, work relentlessly towards the development and progress of the people and endeavor with all my strength to achieve the great ideals of justice, freedom and peace in the world. And Allah is my witness”¹⁶.

During the presidential term, the President of the Republic does not have any political responsibility, as he is not responsible before Parliament, and he can not be removed from office, which confirms the strength of the President’s political position in the constitution.

The only liability raised by the Constitution since 1996 without any changes in its successive amendments, including the amendment of the year 2016 during the exercise of functions, is the establishment of responsibility in the event of high treason in accordance with article 177: “A High Court of State shall be established to review acts which can be qualified as high treason by the President of the Republic, and crimes and offences by the Prime Minister, perpetrated as they exercise their functions. The composition, organization and functioning of the High Court of State, as well as the applicable procedures, shall be established by an organic law”¹⁷.

since the 1996 constitution to this day, the organic law regulating the High Court of the state has not been issued, making it difficult to raise the

liability of the President of the Republic for acts related to the function, especially when it is difficult to give an accurate concept of the crime of high treason.

The absence of political responsibility and the absence of an organic law defining the criminal responsibility of the President of the Republic with regard to acts related to the function, constitutes an imbalance between the powers exercised by the President and the responsibility system resulting there from, which leads to the need to review the responsibility system as a whole.

2 - The Presidential vacancy, resignation or death:

Some changes have been included in article 102 concerning the vacancy, resignation or death of the President of the Republic. Starting by the Article 102, When the President of the Republic, because of a serious and lasting illness, is totally unable to perform his functions, the Constitutional Council shall meet de jure and, after having verified the reality of the impediment by all appropriate means, it shall propose, unanimously, to Parliament to declare the state of impediment¹⁸.

Parliament, convened in a joint session of both Chambers, shall declare the state of impediment of the President of the Republic, by a majority of two thirds (2/3) of its members and assign, as an acting Head of State, for a maximum period of forty-five (45) days, the President of the Council of the Nation who shall exercise his prerogatives in accordance with the provisions of Article 104 of the Constitution. If the impediment continues at the expiry of the period of forty-five (45) days, there shall be a declaration of vacancy by a resignation de jure, in pursuance to the procedure referred to in the paragraphs above¹⁹.

In case of resignation or death of the President of the Republic, the Constitutional Council shall meet de jure and declare the permanent vacancy of the Presidency of the Republic. It shall immediately communicate the act of declaration of definitive vacancy to Parliament, which shall meet de jure²⁰.

The President of the Council of the Nation shall assume the function of the Head of State for a maximum period of ninety (90) days, during which presidential elections shall be organized. The Head of State, so designated, may not be a candidate for the Presidency of the Republic²¹.

In case of coincidence of the resignation or death of the President of the Republic with the vacancy of the Presidency of the Council of the Nation, for any reason whatsoever, the Constitutional Council shall meet de jure and declare unanimously the permanent vacancy of the Presidency of the Republic and the

incapacity of the President of the Council of the Nation. In this case, the President of the Constitutional Council shall assume the function of the Head of State, in pursuance to the terms provided in the preceding paragraphs of Article 102 and Article 104 of the Constitution. He can not be candidate for the Presidency of the Republic²².

The Government in office at the time of the impediment, death or resignation of the President of the Republic cannot be dismissed or reshuffled until the new President of the Republic undertakes his duties.

If the Prime Minister in office becomes a candidate for the Presidency of the Republic, he shall resign de jure. The function of the Prime Minister shall be assumed by another member of the Government appointed by the Head of State²³.

During the periods stipulated in Articles 102 of the constitutional amendment, the provisions in paragraphs 7 and 8 of Article 91 and Articles 93, 142, 147, 154, 155, 208, 210 and 211 of the Constitution may not be applied. During these same periods, the provisions of Articles 105, 107, 108, 109 and 111 of the Constitution cannot be implemented without the approval of Parliament, convened in a joint session of both Chambers. The Constitutional Council and the High Council of Security ought to be consulted beforehand²⁴.

Section II: The functions of the President of the Republic

The constitution defined the functions of The President of The Republic under normal (A) and extraordinary circumstances (B).

We will see in this section the most important revisions about the functions of the President of the Republic in the 2016 Constitutional Amendment.

A) The powers of the President of the Republic under normal circumstances:

We will introduce in this subtitle the powers of the President of the Republic in the executive field (1), then in the legislative field (2) to show the power of the President in the Constitution.

1- The competences of the President of the Republic in the executive field:

The powers of the President of the Republic, In addition to the powers explicitly conferred upon him by other provisions of the Constitution, the President of the Republic shall have the following powers and prerogatives:

1-He shall be the Commander-in-Chief of the Armed Forces of the Republic;

2- He shall be responsible for National Defense;

3-He shall decide and conduct the foreign policy of the Nation;

4-He shall chair the Council of Ministers;

5-He **shall appoint the Prime Minister, after consultation with the parliamentary majority**²⁵, and terminate his functions;

6- He shall sign the presidential decrees;

7- He shall have the right to grant pardons, the right to remission or commutation of punishment;

8- He may refer, on any issue of national importance, to the people by means of referendum;

9- He shall conclude and ratify international treaties;

10- He shall award decorations, distinctions and honorary titles of the State.²⁶

- The President of the Republic shall appoint:

1- to posts and mandates provided by the Constitution;

2- to civil and military posts of the State;

3- to posts decided by the Council of Ministers;

4- The First President of the Supreme Court;

5- The President of the Council of State;

6- The Secretary General of the Government;

7- The Governor of the Bank of Algeria;

8- The judges;

9- The officials of security organs;

10- The Walis.

The President of the Republic shall appoint and recall ambassadors and special envoys of the Republic abroad.

He shall receive the letters of credence and recall of foreign diplomatic representatives, and In addition to those functions, an organic law shall determine the other judicial functions to which the President of the Republic shall appoint.²⁷

The President of the Republic shall appoint the members of the Government after consultation with the Prime Minister²⁸. The Prime Minister shall coordinate Government action and The Government shall develop its action plan and present it in the Council of Ministers.²⁹

The President of the Republic may not, in any case, delegate the power to appoint the Prime Minister, the members of the Government as well as the Presidents and members of constitutional institutions for which no other mode of designation is stipulated by the Constitution. Similarly, he may not delegate his

power to call for referendum, dissolve the People's National Assembly, decide on anticipated legislative elections and implement the provisions of Articles 91, 92, 105, 107to109, 111, 142, 144, 145 and 146 of the Constitution.³⁰

In conclusion the most important amendment in the chapter of the executive power concerning the functions of the President is the selection of The Prime Minister after the consultation of the parliamentary majority, it create a better balance between executive power and legislative power³¹.

2- The competences of the President of the Republic in the legislative field:

The Constitution has limited exclusively the areas in which Parliament legislates in a set of articles including Articles 140 and 141, and as a result this reduces the scope of legislation allocated to Parliament at the expense of the regulatory power of the President³², which is considered as parallel legislation by some jurists.

And the most important revision about the functions of President of the Republic in the chapter of legislative power in the 2016 constitutional amendment is that the legislation by ordinance shall be only for urgent matters and after consultation with the Council of State³³.

So In case the People's National Assembly is in recess, or vacant between parliamentary sessions, the President of the Republic may legislate on urgent matters by ordinance, after consultation with the Council of State. But it stays difficult to give a definition to the meaning of the urgent matters.

The President of the Republic shall submit the texts he adopts for ratification to each of the Chambers of Parliament at their next session and Ordinances not adopted by Parliament shall be null and void.

The President of the Republic can legislate in others cases, as state of emergency, and non adoption of the finance law by parliament within a maximum period of seventy-five (75) days, as from the date of its submission³⁴. **This confirms the large competence of the President of the Republic to legislate by ordinance.**

Always in the field of legislation, the President of the Republic may in accordance of article 145 of the constitution, request a second reading of a law voted by Parliament within thirty (30) days following its adoption.

And the most important competence of the President of the Republic against the parliament he may decide on the dissolution of the People's National Assembly or on anticipated legislative elections, after consulting the President of

the Council of the Nation, the President of the People's National Assembly, the President of the Constitutional Council and the Prime Minister³⁵.

The possibility of dissolving the National People's Assembly without conditions strengthens the position of the President of the Republic in the constitution, and weakens the position of Parliament.

What confirms the superiority of the President of the Republic over Parliament is that he is not subject to any political responsibility for the functions that he performs, as his responsibility is limited to one case, which is high treason, which, according to our opinion, is a criminal crime because it is included in the chapter of judiciary power.

In this way, the Prime Minister alone bears political responsibility before Parliament by general policy statement, a motion of censure and motion of confidence³⁶.

B) The powers of the President of the Republic in unusual circumstances:

The powers of the President of Republic provided in the chapter of executive power at extraordinary circumstances are exactly the same as in the 1996 Constitution without changes both for emergency or the state of siege, state of exception, the general mobilization, declaration of war.

The competence of the President of the Republic stays very large in unusual circumstances; he has the power to declare these circumstances, he needs only to respect some procedures as consultation of some institutions, as we will show it below.

So in case of urgent necessity, after convening the High Council of Security, and consulting the President of the Council of the Nation, the President of the People's National Assembly, the Prime Minister and the President of the Constitutional Council, the President of the Republic shall decree the state of emergency or the state of siege, for a definite period, and take all necessary measures to restore the situation. The duration of the state of emergency or the state of siege can be extended only after approval of Parliament, convened in joint session of both Chambers³⁷.

When the country is threatened by an imminent danger to its institutions, its independence or its territorial integrity, the President of the Republic shall decree the state of exception. Such a measure shall be taken after consulting the President of the Council of the Nation, the President of the People's National Assembly and the President of the Constitutional Council, and after hearing the High Council of Security and the Council of Ministers. The state of exception

shall be terminated according to the same forms and procedures that led to its proclamation³⁸.

The state of exception shall empower the President of the Republic to take exceptional measures that are fundamental to safeguarding the independence of the Nation and the institutions of the Republic and Parliament shall be convened de jure³⁹.

The President of the Republic shall decree the general mobilization in the Council of Ministers after having heard the High Council of Security and having consulted with the President of the Council of the Nation and the President of the People's National Assembly⁴⁰.

The President of the Republic shall declare war in case of actual or imminent aggression, in accordance with the relevant provisions of the United Nations Charter, after having convened the Council of Ministers, having heard the High Council of Security and having consulted the President of the Council of the Nation, the President of the People's National Assembly and the President of the Constitutional Council and Parliament shall be convened de jure.

In this case the President of the Republic shall deliver a speech to inform the Nation⁴¹.

During the period of the state of war, the Constitution shall be suspended and the President of the Republic shall assume all the powers.

When the mandate of the President of the Republic comes to expiry, it shall be extended de jure until the end of the war.

In case the President of the Republic resigns or dies or any other impediment, the President of the Council of the Nation shall assume, as Head of State and within the same conditions as that of the President of the Republic, all the prerogatives required by the state of war.

In case there is a conjunction of the vacancy of the Presidency of the Republic and the Presidency of the Council of the Nation, the President of the Constitutional Council shall assume the functions of the Head of State within the same conditions⁴².

The President of the Republic shall sign armistice agreements and peace treaties. He shall obtain the opinion of the Constitutional Council on the relevant agreements. He shall submit the agreements immediately to be approved explicitly by each Chamber of Parliament⁴³.

As conclusion for the unusual circumstances, What can be said is that the powers of the President of the Republic in these circumstances tend more to logic, given the content of the constitutional oath that he performed and

through which he swore to protect the country, and consulting multiple institutions for the announce these circumstances can make his decisions right .

Conclusion:

The most important revisions in 2016 Constitutional Amendment about the President of the Republic are: the new conditions to be eligible for the presidency which came to reinforce the place of the President of Republic, and to prove the loyalty of the candidate for the presidency of the Republic towards the country.

And the limit of the presidential term by the reelection of President one time gives the opportunity to multiples candidates at least after two terms to be the President of Algeria which guarantee the rotation of power. The amendment shall specify whether the two presidential terms are consecutive or can be separate so that the meaning of the article does not contain any ambiguity.

For the functions of The President of the Republic the limit of the promulgation of ordinance In case the People's National Assembly is in recess or vacant between parliamentary on urgent matters only and after consultation with the Council of State, is the most important revision in relation with the legislative power. But what makes difficult the achievement of this amendment it is not easy to give the definition of the urgent matters, what could we include in this field, so it is necessary to give a definition to the urgent matters.

Even that the selection of the Prime minister is after the consultation of the parliamentary majority, it stay always a simple consultation the President is not obliged to execute it, so to create a balance between the executive and legislative power the President should appoint the Prime Minister from the parliamentary majority.

The alone way to create a veritable balance between the executive power and the legislative power is that the next Constitution shall give more prerogatives to the legislative power both in its functions or its relation with the executive power, **as example for the functions expand the field of legislation for Parliament and limit the regulatory power allocated to the President of the Republic.**

For the relation between the executive power and legislative power, the revision of the Constitution should include conditions to the possibility of dissolving the National People's Assembly.

The political responsibility of the President of the Republic could be introduced in the constitution due to his wide powers in the legislative field, and the organic law regulating the High Court of the state should be issued,

to raise the responsibility of the President of the Republic for acts related to the function.

And the crime of high treason could be defined as any infringement of the oath's content.

What can be observed in the Algerian political experience is that the parliament did not play its role properly in many areas, whether in the area of initiative laws, which are very limited compared to the draft laws initiated by the government.

The parliament is given the power to oversee the government through a number of tools and mechanisms, outlined in the constitution, but the parliament has never utilized its oversight prerogative, making it difficult to assess the effectiveness of these mechanisms.

The laws related to elections of members of parliament and laws for political parties should be revised.

Bibliography:

¹- Law n°16-01 of 26 Jumada Ouwla 1437H corresponding to 6 March 2016, which includes the constitutional amendment, Official Journal of the Republic of Algeria n°14 of 27 Jumada Ouwla 1437H corresponding to 7 March 2016.(Arabic version).

- Algerian Constitutional Council, "THE CONSTITUTION OF THE PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA", Translation undertaken by the High Arab Institute for translation, Algiers, Presses des Editions Populaires de l'Armée, October 2018.(English version).

² - Divided into five chapters:Algeria,The People,The State,Rights and Freedoms, Duties.

³ - The Supreme Court shall be the organ regulating the activity of the courts and tribunals

⁴ - The Council of state shall act as an organ regulating the activity of the administrative courts

⁵ -The Court of Jurisdictional Conflicts shall determine the conflicts of jurisdiction between ordinary courts and administrative courts.

⁶- Art. 84 of the 2016 Constitution, Algerian Constitutional Council, "THE CONSTITUTION OF THE PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA", Op.cit,p.57.

⁷- Art. 85/1&2,Ibid,p.57-58,and the other terms of the presidential election shall be prescribed by an organic law.

- A new Article 103 has been introduced in the 2016 Constitutional Amendment about the elections procedures: "If a candidacy for the presidential election has been validated by the Constitutional Council, the withdrawal can only occur in cases of serious impediment duly noted by the Constitutional Council or the death of the candidate concerned.

If one of the two candidates for the second round withdraws, the electoral process shall continue without taking the withdrawal into account.

In case of death or legal incapacity of one of the two candidates in the second round, the Constitutional Council shall declare that the whole electoral process must be held again. It shall extend, in this case, the period for the organization of new elections for a maximum of sixty (60) days.When applying the provisions of this Article, the President of the Republic in office or who assumes the function of Head of State shall remain in office until the President of the Republic takes

the oath. An organic law shall determine the conditions and modalities of implementation of these provisions.

⁸- Art. 86, *Op.cit*, p.58.

⁹- Be at least forty years old on election day Minimum age of head of state.

¹⁰- The candidate could be a man or woman, for more details about the Elimination of All Forms of Discrimination against Women look: Dr Aissa Zahia, "Introduction to the Convention on the Elimination of All Forms of Discrimination against Women, The National conference on: CEDAW and its impact on Algerian legislation, Faculty of law and political science, University of Boumerdes, 5-6 February 2020.

¹¹- Art.87 of the 2016 Constitution, *Op.cit*, p.58.

For more details about the other conditions to be eligible for the presidency see the Art.139&142 of the Organic Law n°19-08 of 14 Muharram 1441H corresponding to 14 September 2019 amending and supplementing Organic Law n° 16-10 of 22 Dhu al-Qi'dah 1437H corresponding to 25 August 2016 related to the electoral system, Official Journal of the Republic of Algeria n°55, 15 Muharram 1441H corresponding to 15 September 2019.

¹²- The conditions to be eligible for the Presidency of the Republic in Art.73 of the 1996 Constitution were: a candidate must: have solely native Algerian nationality; be muslim, be forty (40) years old on Election Day, enjoy full civil and political rights, testify to the Algerian nationality of the spouse; provide proof of the non-involvement of his parents in hostile acts against the Revolution of November 1, 1954 if he was born after July 1942; produce a public declaration of his mobile and immobile property in Algeria as well as abroad; and fulfill other conditions as specified by statute. Presidential Decree n° 96-438 of 26 Rajab 1417 H corresponding to 07 December 1996 relating to the issuance of the text to amend the constitution, ratified in the referendum of 28 November 1996, in the Official Journal of the Republic of Algeria n° 76, dated 08 December 1996.

¹³- Art.88/1&2 of the 2016 Constitution, *Op.cit*, p.60: "The presidential term shall be five (5) years. The President of the Republic may be re-elected once."

¹⁴- Art.74 of the 2008 Constitutional Amendment: "The presidential term shall be five years. The President of the Republic may be re-elected.", Law n°08-19 of 17 Dhu al-Qi'dah 1429 H corresponding to 15 November 2008, containing the constitutional amendment, Official Journal of the Republic of Algeria n° 63, of 18 Dhu al-Qi'dah 1429 H corresponding to 16 November, 2008 (Arabic version).

¹⁵- Art. 89 of the 2016 Constitution, *Op.cit*, p.60.

¹⁶- See the translation of the Oath provided for in Art. 90 of the Constitution: THE CONSTITUTION, *Op.cit*, p.157-158.

It is the same Oath as in Art.76 of the 1996 Constitution.

¹⁷- Art.177/1&2 of the 2016 Constitution, same as Art 158 of the 1996 Constitution.

¹⁸- Art.102 /1 , of the 2016 Constitution, *Op.cit*, p.70.

¹⁹- Art.102 /2&3, *Ibid*, p.71-72.

²⁰- Art.102 /4&5, *Ibid*, p.72.

²¹- Art.102 /6&7, *Ibid*, p.73.

²²- Art.102 /8, *Ibid*, p.73-74. The alone difference with Art 88 of Constitution of 1996 is the period to assume the duties of Head of State and during which presidential elections shall be organized. It was a period of only **sixty (60) days**.

²³- Art.104 /1&2 of the 2016 Constitution, *Op.cit*, p.76.

²⁴ - Art. 104/3&4, *Ibid*,p.76-77.

²⁵ - *It is a new amendment and the difference with the Article 77/5 of the 1996 Constitution is that The President of the Republic shall appoint the Prime Minister and put an end to his functions. For more details about the executive power in the 1996 Constitution:Hartani A.K "Le pouvoir présidentiel dans la constitution du é_ novembre 1996", These pour l'obtention du Doctorat d'Etat en roit public, Univeristé d'Alger, 2003, and Douaïssia Karima, « Etude sur la pratique constitutionnelle de la periode d'après1999 en Algerie, These de Doctorat sciences, Faculté de Droit, Université Alger1, 2017.*

²⁶ - Art. 91 of the 2016 Constitutiont, *Op.cit*,p.61-62.

²⁷ - Art 92, *Ibid*,p.63-64.

²⁸ - Same as Art.79/1 of the 2008 Constitutional Amendment and the difference with the Art.79/1 of the 1996 Constitution is that The President of The Republic: "The Head of Government presents the members of the Government he choosed to the President of the Republic who appoints them.

²⁹ - Art.93 of the 2016 Constitution, *Op.cit*,p.64-65.

³⁰ -Art.101, *Ibid*,p.70.

³¹ - Professor Mohamed Bousoltane, *The Peoples's Democtratic Republic of Algeria, Edited By:Institutefor International and Comparative Law in Africa, 2016Oxford University Press, <https://oxcon.oup.com/view/10.1093/law-ocw936>. document.1/law-ocw-936#law-ocw-cm936-div1-1*(consulted on 17/04/2020).

³² - Art.143 of the 2016 Constitution, *Op.cit*,p.109-110.

³³ - the difference between Art.142/1 and the Art.124 of the 1996 Constitution is that:In case of the non-functioning of the People's National Assembly or in the periods between parliamentary sessions, the President of the Republic may legislate by ordinance in all fields.

³⁴ - Art.142, 138/9&10 of the 2016 Constitution, *Op.cit*,p.108.

The other powers of the President of Republic provided in the 2016 Constitutional Amendment are exactly the same as the precedent Constitution without changes.

And one of the most important functions of the President his prerogatives for the constitutional amendment at Art 208&210:

Art. 208: "The constitutional amendment shall be decided on the initiative of the President of the Republic. It shall be voted in identical terms by the People's National Assembly and the Council of the Nation in the same conditions as a legislative text.

It shall be submitted by referendum to the approval of the people within fifty (50) days of its adoption. The constitutional amendment, approved by the people, shall be promulgated by the President of the Republic."

Art. 210:" If according to the reasoned opinion of the Constitutional Council the draft constitutional amendment in no way infringes upon the general principles governing the Algerian society, the human and citizen's rights and freedoms, and does not alter in any manner the fundamental balance of the powers and the institutions, the President of the Republic may directly promulgate the law containing the constitutional amendment without submitting it to referendum, if it has been approved by three-quarters (3/4) of the votes of the members of the two Chambers of Parliament."

Observation:All revisions of the 1996 Constitution both at year 2002, 2008, 2016 have been decided in accordance with Art.176 of the 1996 Constitution it means Amendments without referendum, all revised texts were adopted by the two chambers of the parliament and promulgated by the President of the Republic.

³⁵ - Art.147 of the 2016 Constitution, *Ibid*, p.111-112: *In both cases, legislative elections shall take place within a maximum limit of three (3) months.*

³⁶ - Art.98 & 153 ,*Ibid*,p.67-86,115 .

³⁷ - Art.105/1&2 *Ibid*,p.77-78.

The organization of the state of emergency and the state of siege shall be defined by an organic law.
Art 106, *Ibid*,p.78.

³⁸ - Art. 107/1&2 &5*Ibid*,p.78 and 79.

³⁹ - Art. 107/3&4, *Ibid*,p.79.

⁴⁰ - Art. 108,*Ibid*,p.79-80.

⁴¹ - Art. 109/1&2&3,*Ibid*,p.80.

⁴² - Art. 110/1&2&3&4,*Ibid*,p.81.

⁴³ - Art. 111/1&2&3,*Ibid*,p.82.