

1. INTRODUCTION

The Organic Law on the Electoral System includes new provisions pertaining to the electoral process in general and the renewal of the People's and Provincial Councils specifically, particularly those related to the voting system, seat allocation, and the process of filing appeals after the results. It includes 321 articles, an increase of approximately 100 articles over the previous law, divided into nine chapters.

This new amendment takes into account the commitment to achieving many objectives, including moralizing political life, removing the influence of corrupt money from the electoral process, allowing youth, civil society, and women to participate in decision-making, and ensuring transparent elections.

Through these objectives, we note that the new law seeks to restore the people's confidence in their institutions. This confidence was greatly shaken when corrupt money infiltrated the legislative authority in Algeria, which sparked popular discontent against the elected councils and a boycott of the elections

Order 21-01 contained several new provisions in numerous articles. In addition to these provisions, the legislature issued other orders that supplemented and amended this order in the same year, including Order 21-02 specifying electoral districts and the number of seats to be filled in parliamentary elections; Order 21-05 concerning the deadline for (-Order No 21-01 , regarding the organic law on elections., 2021)submitting candidate lists; and Order 21-10 amending and supplementing some provisions of Order 21-01 concerning the requirement of parity. All of these were aimed at ensuring accuracy and control over the electoral process, enhancing transparency and credibility, and departing from the old electoral system and eliminating its shortcomings.

2. Provisions related to the electoral system in general:

Order 21-01 introduced several new provisions not previously included in the electoral laws, which the legislator considered essential for reforming the electoral system in Algeria. These provisions include adopting an open list system, requiring equal representation between men and women, as well as

age and university education requirements, changing the electoral coefficient from 7% to 5%, and abolishing the 4% requirement for participation in the elections.

2.1 Adopting proportional voting on the open list and preferential voting without mixing

The new law completely changed the electoral system from a closed list to an open list, stipulating that those elected to parliament and local councils are chosen through proportional voting on the open list and preferential voting without mixing. In this case, the law reduced unfair competition for the top of the list and ranking, as well as other unethical practices.

The list electoral system is widespread in countries with large electoral districts. Representatives are assigned to a group of representatives chosen by voters from among the names on the electoral list or lists, which vary from one system to another. There are closed list systems and mixed list systems. The closed list system presents several electoral lists, and the voter selects one of the lists presented to them in its entirety. Voters are not permitted to choose from among the candidates on the list or change their order. The mixed list system, on the other hand, allows voters to select candidates from among several electoral lists presented to them. They can then create the appropriate list and place them in order of priority. (Idris, 2016, p. 338)

This system was implemented in Tunisia for the election of members of the House of Representatives and allows for the free expression of voters' will. In this mixed system, voters have the right to add one or more names to the list they are voting for, from among the names on other lists (Oussedik, 2017, p. 51) There is a third system, which is open-list voting and preferential voting without mixing. Voting by choice or preference means that when the voter chooses a list from among the lists, he or she can change the order of the candidates as desired. (Sharrat, 2011, p. 229) This was adopted in Decree 21/01. The law stipulates that members of the Municipal People's Council and the Provincial People's Council shall be elected for a term of (5) years by proportional voting on the open list (-Order No 21-01 , regarding the organic law on elections., 2021), and by preferential voting without mixing. The proportional voting system aims to distribute seats according to the

percentage of votes each list receives (Idris, 2016, p. 343).

This system is applied in legislative and local elections and is not suitable for presidential elections. Improving the responsiveness of electoral processes to citizens' aspirations and hopes requires reforming the electoral system and voting patterns, with the aim of raising levels of integrity in the electoral process. Adopting the closed-list system also prevents any changes or ordering of candidates, neither during the nomination process nor during the seat allocation process, except in exceptional cases such as death or a legal impediment. This system strips the voter of all freedom to rank candidates according to their preferences.

Decree 21-01, relating to the electoral system, was new in that it changed the method of proportional voting on a closed list, which did not allow the voter to rank the candidates within a single list, to adopt a different system consisting of proportional voting on an open list and preferential voting without mixing, as stipulated in Articles 169 and 191 thereof, relating to the election of members of municipal and provincial people's councils and the National People's Assembly (-Order No 21-01 , regarding the organic law on elections., 2021).

Order 21-01 stipulates that, in each polling station, voters, upon entering the polling booth, shall choose one list and vote for one or more candidates from the same list within the seats allocated to the electoral district (-Order No 21-01 , regarding the organic law on elections., 2021). The Algerian legislature did well to adopt this method of voting on an open list with preferential voting without mixing, after previously adopting a closed list system in which voters were not allowed to determine the order of candidates. Instead, voters could vote on the list as it is, in its order, which had previously raised many problems, particularly with regard to the corruption of the electoral process in the matter of the order of candidates within a single list. Thus, voters now have the ability to choose candidates within the list and order them according to their free will.

2.2 The condition of parity between women and men on electoral lists

The new law completely changed the electoral system, from closed lists to open lists. This law stipulates that those elected to parliament and local

councils are chosen by proportional representation, open lists, and preferential voting, without mixing. In this case, the law reduces unfair competition for the top spot on the list, ranking, and other unethical practices.

The list-based electoral system is widespread in countries with large electoral districts. Representatives are assigned representation from among the names on the electoral lists, which vary from one system to another. There are closed list systems and mixed list systems. The closed list system presents several electoral lists, and the voter selects one of the entire lists presented to them. Voters are not permitted to choose from among the candidates on the list, nor may they change their ranking (Idris -B. , 2016, p. 338).

The mixed list system allows voters to select candidates from several electoral lists presented to them, through which they can create the appropriate list and place it in order of priority. This system was applied in Tunisia for the election of members of the House of Representatives, and allows for the free expression of voters' will. In this mixed system, voters have the right to add one or more names to the list they are voting for, from among the names on other lists (Oussedik, Al-Wafi fi Sharh al-Law al-Jaza'iriyya (The Comprehensive Explanation of Algerian Constitutional Law)., 2017, p. 51).

There is a third system, which is voting on the open list and preferential voting without mixing. Voting by choice or preference means that when the voter chooses a list from the lists, they can change the order of the candidates as they wish (Sharrat., 2011, p. 229). This was adopted in Decree No. 21-01. The law stipulates that members of the Municipal People's Council and the Provincial People's Council shall be elected for a term of (5) years by proportional voting on the open list and by preferential voting without mixing (-Order No 21-01 , regarding the organic law on elections., 2021). The proportional voting system aims to distribute seats according to the percentage of votes obtained by each list. This system is applied in legislative and local elections and is not suitable for presidential elections (Idris -B. , 2016).

Improving the responsiveness of electoral processes to citizens' aspirations and hopes requires reforming the electoral system and voting

patterns. This is aimed at raising levels of integrity in the electoral process. Furthermore, adopting a closed list system prevents any changes or ordering of candidates, neither during the nomination process nor during the seat allocation process, except in exceptional cases such as death or a legal impediment. This system strips voters of all freedom to rank candidates according to their preferences.

Order 21-01, relating to the electoral system, introduced a new approach, replacing the closed-list proportional voting system, which previously prevented voters from ranking candidates within a single list. It adopted a different system, embodying proportional voting on an open list and preferential voting without mixing. This is stipulated in Articles 169 and 191 thereof, relating to the election of members of municipal and provincial people's councils and the National People's Assembly (-Order No 21-01 , regarding the organic law on elections., 2021).

Order 21-01 stipulates that, in each polling station, voters, upon entering the polling booth, shall choose one list and vote for one or more candidates from the same list within the seats allocated to the electoral district. (-Order No 21-01 , regarding the organic law on elections., 2021) The Algerian legislature did well to adopt this method of voting on an open list with preferential voting without mixing, after previously adopting a closed list system in which voters were not allowed to determine the order of candidates. Instead, voters could vote on the list as it is, in its order, which had previously raised many problems, particularly with regard to the corruption of the electoral process in the matter of the order of candidates within a single list. Thus, voters now have the ability to choose candidates within the list and order them according to their free willEnter here the text

2.3. Age and University Education Requirements

The new electoral law requires electoral lists to allocate at least half of their nominations to candidates under the age of forty, and at least one-third of the list's candidates must have a university degree. The new law increased the quota of university graduates to one-third on electoral lists, supporting national competencies and university graduates across the country (-Order No 21-01 , regarding the organic law on elections., 2021).

A reading of the most important new provisions in decide21-01 related to the the electoral system in Algeria

In addition to these requirements, there are specific conditions for candidates. Candidates for municipal or provincial councils must meet the following requirements:

- Meet the conditions stipulated in Article 50 of this organic law and be registered in the electoral district in which they are running.
- Be at least twenty-three (23) years of age on election day.
- Be of Algerian nationality.
- Prove that they have performed national service or been exempted from it.
- Not have been finally sentenced to a custodial sentence for committing a felony or misdemeanor and have not been rehabilitated, with the exception of unintentional misdemeanors (-Order No 21-01 , regarding the organic law on elections., 2021)
- To prove their status with the tax administration.
- They must not be known to the public for their connections with financial circles and suspicious businesses, nor for their direct or indirect influence on the free choice of voters and the smooth running of the electoral process.

As for the conditions required for candidates for the National People's Assembly, they are the same as those required for candidacy for the People's and Provincial Assemblies, except for the age requirement of 25 years, and the addition of another important condition: they must not have served two consecutive or separate parliamentary terms. (-Order No 21-01 , regarding the organic law on elections., 2021)

In addition, there are new conditions that must be met by anyone wishing to run for the National Assembly. Any member of a municipal or provincial assembly who meets the legal requirements may run for the National Assembly. In addition to the above, the candidate must meet the following conditions (-Order No 21-01 , regarding the organic law on elections., 2021):

- Be thirty-five (35) years of age on election day.
- Have completed a full term as an elected official in a municipal or provincial assembly.

In addition to the conditions that must be met by the candidate, there are other conditions that the candidate must abstain from, including:

The electoral law prohibits any candidate from running on more than one list

of candidates, or in more than one electoral district, under penalty of punishment. Anyone found guilty of doing so is subject to the penalty stipulated in Article 278 of the Electoral Code, which is imprisonment for a period of three months to three years and a fine of 4,000 DZD to 40,000 DZD (Frijat, 2021, p. 103).

It also prohibits the registration of more than two candidates on the same list of candidates based on kinship or marriage. This measure, of course, aims to promote diversity within municipal councils (Shihoub., 1986, p. 103). This measure is based on democracy and pluralism, which are incompatible with monopoly and ownership, and ensures that the decisions of elected local councils are not impartial or deviate from the local public interest. However, in practice, this measure is insufficient to prevent these concerns within the municipal popular council, as the latter may consist of relatives from several disparate lists.

This requirement has achieved its purpose only during the preliminary processes and before the results are announced, and does not extend to the election results, with the aim of completely eliminating the threat that tribalism and kinship could pose to municipal councils' work. This requires reconsidering this point, without neglecting the importance of freedom of candidacy and the principle of participation in achieving participatory democracy (Frijat, 2021).

2.4- Reducing the electoral coefficient and abolishing the 4% requirement for participating in the elections.

The organic law changed the electoral coefficient, reducing it from 7% to 5%. This means that lists that did not receive at least 5% of the votes cast are not taken into account when distributing seats. In the event of a tie, the seats obtained by each list are distributed based on the number of votes each received. In the event of a tie within a single list, the seat is awarded to the youngest candidate, according to Article 172 (-Order No 21-01 , regarding the organic law on elections., 2021).

The new law stipulates the complete abolition of the 4% requirement for all parties, both old and new. However, they are now required to collect signatures alongside independent candidates (-Order No 21-01 , regarding

the organic law on elections., 2021). This electoral threshold was inconsistent with the principle of equal opportunity in political activity and its current symbolism, which is based on renewing the political class and moralizing its responsibilities. However, the same methodology was adopted for participating in the presidential elections, by collecting a specific number of signatures, with a lower number for the National People's Assembly and municipal and provincial councils.

The requirements for signatures have changed, as Order 21-01 suspended paragraphs 1, 2, and 3 of Article 202, which required 4% of the votes in the electoral district during the last legislative elections, or the support of ten (10) elected officials, or a number of signatures.

The new law clarifies this requirement through new provisions, as follows: For lists submitted under the auspices of political parties, each candidate list must be supported by at least twenty-five thousand (25,000) individual signatures from voters registered on the electoral rolls. Signatures must be collected across at least 23 states, with the minimum number of signatures required in each state being no less than three hundred (300). For independent lists, each list must be supported by at least one hundred (100) signatures for each seat to be filled by voters in the electoral district concerned (-Order No 21-01 , regarding the organic law on elections., 2021).

3.Management, Monitoring, and Financing of the Electoral Process

The legislator's intent in this law was to put an end to corruption, bribery, and fraud. This was confirmed by its focus on the management, financing, and monitoring of the electoral process

3.1 Assigning the Management and Monitoring of Electoral Processes to a National Authority

An electoral administration is defined as the legally responsible institution or body whose purpose is to manage some or all of the essential aspects of the implementation of electoral processes and referendums in their various forms. The three main forms of electoral administration are the independent electoral administration, the governmental electoral administration, and the mixed electoral administration.

The electoral administration must ensure its ability to ensure the

legitimacy and credibility of the processes under its responsibility, regardless of the form and nature of that administration. This can be achieved by adhering to a set of basic principles in its management of the electoral process. These principles are independence, impartiality, integrity, transparency, competence, professionalism, and service. These general principles form the basis for managing the electoral process, as they are of pivotal importance in ensuring the integrity of the electoral process, whether apparent or perceived (Guide, 2007).

In accordance with the provisions of the Constitution, the legislator has entrusted the National Independent Election Authority with the task of preparing, organizing, managing, and supervising all electoral and referendum processes (-Order No 21-01 , regarding the organic law on elections., 2021) , by granting it legal personality (-Order No 21-01 , regarding the organic law on elections., 2021). The National Independent Election Authority exercises its powers from the time the electoral body is summoned until the results are announced (-Order No 21-01 , regarding the organic law on elections., 2021). The independent authority receives any petition or protest related to the electoral or referendum processes submitted by political parties, candidates, or voters (-Order No 21-01 , regarding the organic law on elections., 2021).

3.2- Electoral Campaign Financing

The new electoral model has been valued for reducing unfair competition for the top spot on the electoral list and ranking, and for reducing the use of corrupt political money. This law also established clear mechanisms to eliminate corrupt money, bribery, and other practices targeting vulnerable social groups.

In this regard, and regarding electoral campaign financing-, Article (87) of Decree 21-01 prohibits any candidate from receiving, directly or indirectly, cash or in-kind donations or any other contribution, regardless of its form, from any foreign country or any natural or legal person of foreign nationality. The new provisions of this law also prohibit the financing of electoral candidates, regardless of their capacity, by companies or the so-called influence market.

The money used in electoral campaigns has often drained state funds in the past, which prompted the new law to put an end to this by amending many of the provisions related to this area. Order No. 21-0201 established a committee within the Independent Authority tasked with monitoring the electoral campaign. The committee is composed of a judge appointed by the Supreme Court from among its judges as chairman; a judge appointed by the Council of State from among its advisory judges; a representative of the High Authority for Transparency, Prevention and Combating Corruption; and a representative of the Ministry of Finance (-Order No 21-01 , regarding the organic law on elections., 2021). The diverse composition of this committee demonstrates the state's desire to conduct a financial audit of electoral processes.

3.3- Deadlines for Submitting Candidacy Lists and Appealing Them

Order No. 21-05 (21-05, 2021)amends and supplements the provisions of Articles 203 and 206 of Order No. 21-01, which are as follows:

This amended article sets the deadline for submitting candidate lists, ending forty-five (45) days before the election date (21-05, 2021)The rejection of any candidacy or candidate list must be clearly justified, as the case may be, by a decision from the coordinator of the provincial delegation of the autonomous authority or the coordinator of the authority at the diplomatic or consular mission abroad (21-05, 2021)

The rejection decision must be communicated, under penalty of nullity, within eight (8) days from the date of submission of the declaration of candidacy. The President of the autonomous authority may, if necessary, extend this deadline by a maximum of four days. The candidacy is deemed accepted upon the expiry of these deadlines. The rejection decision may be appealed before the regionally competent administrative court within three (3) days from the date of notification (21-05, 2021)

The rejection decision may be appealed by candidates in electoral districts abroad before the Administrative Court in Algiers within three days from the date of notification.

The regionally competent administrative court shall decide on the appeal within two days from the date of filing. The ruling of the

Administrative Court may be appealed before the regionally competent Administrative Court of Appeal within two (2) days from the date of notification of the ruling. The Administrative Court of Appeal shall decide on the appeal within two (2) days from the date of filing (21-05, 2021).

Regarding objections and appeals following the announcement of the provisional results, the electoral law includes articles in this regard that explain the role and duties of all parties involved in this process, as confirmed by Article 186, which stipulates that the provincial delegation of the Independent Authority for Elections decides on objections and its coordinator announces the provisional results of the municipal and provincial people's council elections within 48 hours from the date on which the provincial delegation of the Independent Authority receives the minutes of the provincial electoral committee, stressing that this period can be extended to 24 hours, if necessary, by decision of the coordinator of the provincial delegation of the Independent Authority (21-05, 2021). 37

In the same context, the Elections Law stipulates that every list of candidates for the municipal and provincial people's council elections, every candidate, and every political party participating in these elections have the right to appeal the provisional results before the regionally competent administrative court within 48 hours of the announcement of the provisional results. The Administrative Court shall decide the appeal within five (5) full days from the date of filing the appeal.

In accordance with the law, an appeal against the Administrative Court's ruling may also be filed before the regionally competent Administrative Court of Appeal within three (3) full days from the date of notification of the ruling. The Court shall decide the appeal within five (5) full days from the date of filing, and its decision shall not be subject to any form of appeal.

Accordingly, Article 186 of the same law affirms that the results of the municipal and provincial elections become final by force of law upon the expiry of the aforementioned judicial appeal deadlines. It notes that in the event of a judicial appeal against the results, the results become final upon the issuance of final judgments. On the other hand, the changes included in the provisions of the municipal law, approved by Order No. 21-13 of August

31, 2021 (21-13, 2021), fall within the framework of "ensuring their consistency" with the new electoral system.

3.4- Possibility of Reviewing Judicial Rulings

The Algerian legislator has made clear, through previous and repealed electoral laws, that the ruling of the Administrative Court issued in candidacy disputes is not subject to any form of appeal. This is the same approach taken by the legislator regarding disputes over registration on electoral lists.

However, a significant shift occurred with the issuance of Order 21-01, which established the possibility of appealing an Administrative Court ruling before the regionally competent Administrative Court of Appeal within two days from the date of notification of the filing of the appeal. While we commend the legislator's efforts, which thus guaranteed the principle of two-stage litigation in electoral matters—a guarantee absent from all electoral laws previously known in Algeria—we consider the two-day period short and insufficient for preparing the petition and supporting it with evidence, especially for residents of areas long distances from the capital. This period was reduced to three days by amending Order 21-01 with Order 21-05Enter here the text of first subtitle, Enter here the text of first subtitle, Enter here the text of first subtitle, Enter here the text of first subtitle, Enter here the text of first subtitle, Enter here the text of first subtitle.

4. CONCLUSION

Through our study of the most important provisions contained in the new electoral law, represented by Order 21-01, and the orders amending and supplementing it, we note its positive impact on the country's recent elections, both local and legislative. The latter allowed candidates from the lower classes to win, with many reaching municipal and provincial councils and even the top of Parliament, through the new provisions and conditions it introduced that changed the course of elections and eliminated political corruption.

However, there remain some provisions or texts that require reconsideration, due to their ambiguity or the difficulty of implementing them in society due to their unique characteristics. These include:

- Regarding the choice of the open list system, this system has caused internal conflicts and divisions within parties in several countries, due to the competition between candidates from the same party. This is what actually happened in the recent elections, especially for the National Liberation Front Party. This conflict appears before the electoral process, when individual efforts predominate in election campaigns, with each candidate seeking to market their image to voters rather than working collectively within a party list competing on a common platform with other lists. This conflict also reinforces tribal and regional tendencies in the elections, as well as after the voting ends, when competition between party lists turns into internal competition between candidates within the same list.

Regarding the requirement of parity, experiences from countries with conservative social systems confirm that this system has negatively impacted women's representation in elected councils, as selecting them from an open list remains difficult. In many areas of the country, we have not found a single female candidate. This is due, as we mentioned earlier, to the specificity of conservative regions. On the other hand, we note that the process of designating positions specifically for women in candidacy has negative consequences for women, as it violates the principle of gender equality. - Regarding the clause barring a citizen from running if he or she is known to the public to have connections with financial circles and suspicious businesses, this condition is difficult to prove, as it could, in many cases, violate the principle of the right to run for office. Therefore, we urge you to reconsider this clause.

5. Bibliography List:

1. Books :

Guide, I. I. (2007). International Institute for Democracy and Electoral Assistance (IIDA) Guide. Forms of Electoral Administration.

Idris, B. (2016). General Principles of Constitutional Law and Political Systems. University Publications Office.

Oussedik, -F. (2017). Al-Wafi fi Sharh al-Law al-Dawliyyah al-Jaza'iriyyah. Part Three, Fourth Edition, Office of University Publications.

Sharrat, A. (2011). *Al-Wajeez fi al-Law al-Dawliyyah al-Kubra'iyyah wa al-Isti'mal al-Dawliyyah.* , Seventh Edition, Office of University Publications.

Shihoub., -M. (1986). "Foundations of Local Administration and its Application to the Municipal and State System in Algeria. Office of University Publications.

2. Journal article :

Frijat, I. (2021). "A Reading of the System for the Election of Members of Municipal People's Councils in Light of Decree No. 21-01 Containing the Organic Law Relating to the Electoral System. Journal of Legal and Political Sciences, Volume 12, Issue 2, S, 103.

Guide, I. I. (2007). International Institute for Democracy and Electoral Assistance (IIDA) Guide. Forms of Electoral Administration.

3. executive decrees

Order No. 21-13 of August 31, 2021, relating to .(2021) .Order No. 21-13 - the municipality, amending and supplementing some provisions of Law No. 11-12 relating to the municipality amending and supplementing certain provisions .(2021) . Order No. 21-05 /1442 . (of Decree No. 21-01 of Rajab 26, 1442 (March 10, 2021 March 10, 2021) containing the Organic Law relating to the) .electoral system

4.Laws

-Order No 21-01 , regarding the organic law on elections. (2021, March 10).
-Order No. 21-01. <https://www.joradp.dz/FTP/jo-arabe/2021/A2021017.pdf>.