

## The Role of Constitutional Institutions in Addressing Presidential Office Vacancies

Bouguerne Toufik \* <sup>1</sup>, Faculty of Law and Political Science, Mohamed Lamine Debaghine University – Sétif 2, Algeria, t.bouguerne@univ-setif2.dz

Send Article Date: 09 /08/2025

Date of acceptance of the article: 22/11/2025

### Abstract:

The constitutional legislator dealt with the problem of a vacancy in the office of the President of the Republic by setting up a temporary delegation of state authority. For 90 days, the Speaker of the Council of the Nation serves as Acting Head of State. If both the President of the Republic and the Speaker of the Council of the Nation are not in office at the same time, the President of the Constitutional Court takes over as Head of State until new presidential elections are held.

When the president is not in office, constitutional institutions are very important, no matter how long the vacancy lasts (for example, if the president is sick) or if it is permanent (for example, if the president dies, resigns, or for any other reason). These institutions, especially Parliament and the Constitutional Court, which were created by the 2020 constitutional amendment, have rules for filling the presidency when it is vacant. This is because it is a very important constitutional issue that needs to be handled carefully.

**key words:** Constitutional institutions; President of the Republic; constitutional vacancy; Constitutional Court; Parliament.

---

\* Bouguerne Toufik

### **Introduction:**

The Algerian state has had a lot of constitutions, and all of them have set rules for the executive branch, which is one of the most important parts of government. The President of the Republic is in charge of it all. This is a very important and prestigious position that is higher than all others. The people elect the President for a set term of five years, starting on the day of the constitutional oath. During this time, the constitution gives the President a number of powers as head of the executive branch, as well as some legislative powers. He is the Head of State, the protector of the Constitution, and the voice of the people.

The office is very important because it has all of these powers. So, it can't be left empty, because that could lead to serious problems, like division and chaos. However, reality has shown that the office of President of the Republic can become empty for a number of reasons, such as a serious and long-term illness, death, resignation, or removal from office.

This possibility has led the constitutional legislator to create a set of rules for filling such a vacancy, based on the idea that states are not run by tradition but by clear constitutional rules. The constitutional legislator has dealt with the vacancy of the presidency by putting in place a temporary system of interim leadership. For the next ninety days, the President of the Council of the Nation will be the Acting Head of State. If both the President of the Republic and the President of the Council of the Nation leave their jobs at the same time, the President of the Constitutional Court will take over as Acting Head of State until all stages of the presidential elections are held in full transparency and fairness. This process eventually leads to the swearing-in of a President who was chosen by the people and in line with their wishes.

Constitutional institutions are very important for dealing with situations where the President of the Republic's office is empty. This can happen temporarily, like when the President is very sick, or permanently, like when the President dies, resigns, or for any other reason. The Parliament and the Constitutional Court, which were set up by the 2020 constitutional amendment, are in charge of making sure that the process of filling a presidential vacancy follows a set of rules. This is especially important because a presidential vacancy is a sensitive constitutional issue that needs to be handled with care.

To address the subject of this study, the following research question has been formulated:

### **How do constitutional institutions contribute to overcoming a vacancy in the presidential office in Algeria?**

Because this topic is so important and complex, this study uses a descriptive-analytical method to look at all of its parts. This method entails pinpointing the conditions that could result in a presidential vacancy, elucidating the processes for creating and announcing such a vacancy, delineating its legal and political ramifications, and scrutinizing the actions implemented to rectify it. The examination will be predicated on the constitutional stipulations regulating the vacancy of the presidential office.

Accordingly, the second section of this study is divided into three subsections:

- Cases of Vacancy in the Office of the President of the Republic
- Procedures Followed by the Constitutional Court
- Procedures Followed by Parliament

### **THE FIRST TOPIC: CASES OF VACANCY IN THE OFFICE OF THE PRESIDENT OF THE REPUBLIC**

The President of the Republic occupies a significant position as the backbone and fundamental pillar of the executive authority. The constitutional framers have vested the

President with a range of legislative powers; therefore, his permanent or temporary inability to exercise these constitutional functions adversely affects the operation of state institutions.

### **FIRST REQUIREMENT: TEMPORARY VACANCY OF THE OFFICE OF THE PRESIDENT OF THE REPUBLIC**

The constitutional framers have limited the grounds for a temporary vacancy in the presidency to the case of a serious and chronic illness, as stipulated in Article 94 of the 2020 constitutional amendment. This illness must be both chronic and serious, and it must persist for a specified duration for the temporary vacancy to be declared.

#### **Firstly: The Condition of Serious and Chronic Illness**

For the illness to result in the President's inability to perform his duties, the constitutional framers have required that it be serious and chronic, considering this the sole condition that gives rise to a temporary impediment.

#### **1- Definition of Serious and Chronic Illness**

Article 94 of the 2020 Constitution says that a "serious and chronic illness" must have these two traits, but the people who wrote the Constitution did not give a specific definition of the term.<sup>1</sup>

This led legal experts to come up with their own definition, which said it was a serious and permanent disorder that affected the body's vital organs and made the person unable to do their normal tasks and responsibilities.<sup>2</sup>

#### **2- Nature of the Illness (Types)**

The sickness could be organic, meaning it affects one of the body's organs. It may also be functional (mental), meaning that mental health is only partially or completely impaired, or it may be both physical and mental at the same time.

To determine that such an illness has incapacitated the President from fulfilling his duties, it must endure for a defined period and be both severe and chronic.<sup>3</sup>

#### **Secondly: Conditions Related to the Illness**

For a serious and chronic illness to constitute a legitimate basis for declaring a temporary vacancy in the presidency, the following conditions must be met:

#### **1- The Illness Must Be Chronic and Serious**

You can call an illness chronic without any problems because this word means more than just a short episode that needs only basic medical tests or a short stay in the hospital. Instead, it means a state that lasts longer and is more severe.<sup>4</sup>

On the other hand, figuring out how serious something is harder. Article 94 of the 2020 Constitution says that seriousness is necessary, but it doesn't say how serious or what the consequences are. The standard of seriousness is very flexible on its own. Does it mean a mental illness or a physical one? Does it mean that the person can't do anything at all, or just that they can't do something right now? Also, Article 57 of Ordinance No. 97/07 says that a presidential candidate must submit a medical certificate to prove illness. However, this does not make clear

---

1- Article 94 of the Constitutional Amendment of 2020.

2- Hamid Meziyani, "The Problematic of the Vacancy of the Office of the President of the Republic in Algeria between Text and Practice," *The Academic Journal of Legal Research*, University of Béjaïa, Vol. 11, No. 03 (Special Issue), 2020, p. 429.

3- Ibid., p. 430.

4- Asma Boukhenfouf, "The Case of Vacancy in Constitutional Institutions in Algeria," *Doctoral Thesis (Third Cycle), Specialization in State and Public Institutions*, Faculty of Law and Political Science, Mohamed Lamine Debaghine University, Sétif, 2023–2024, p. 23.

what kinds of illnesses or injuries would make the President unable to do his or her official duties.<sup>5</sup>

It is important to note that the constitutional legislator says that the President of the Republic can only be declared incapacitated if the illness is both serious and chronic. This is because a condition can be chronic without being serious, or serious without being chronic.<sup>6</sup>

The constitutional legislator has switched back and forth between requiring that the illness be both chronic and serious when declaring a temporary impediment and not requiring it. The 1976 and 1989 Constitutions included this condition, and later amendments confirmed it. However, the 1963 Constitution did not have it, and the 1979 Constitution did not have it.<sup>7</sup>

## **2- Fixed Duration Requirement**

The constitutional legislator also made it clear that the illness must be both chronic and serious and last for a certain amount of time, no more than 45 days. This stage is a temporary problem; if it lasts longer than this, it becomes a permanent vacancy.

During this time, the President of the Council of the Nation is in charge of the Acting Head of State, who has the constitutional powers that go with the job.<sup>8</sup> If the President of the Council of the Nation is unable to carry out these duties at this time, the President of the Constitutional Court will take over as Head of State, as stated in Article 96 of the Constitution. In this situation, the Acting Head of State cannot run for president.<sup>9</sup>

The constitutional legislator has limited the definition of a temporary impediment to only serious and long-term illnesses. However, in reality, other situations could come up, such as the President leaving the country or suddenly going missing. This method therefore narrows the possibilities for constitutional interpretation. Additionally, the constitutional characterization of this circumstance as a “temporary impediment” contradicts the medical viewpoint, which would categorize such a condition as a permanent impediment. This difference makes a constitutional gap.<sup>10</sup>

## **SECOND REQUIREMENT: PERMANENT VACANCY OF THE OFFICE OF THE PRESIDENT OF THE REPUBLIC**

There are many reasons why the office of the President of the Republic might become permanently vacant. There are different reasons for a temporary vacancy and a permanent vacancy, and the processes that are used to fill them are also different. However, both types of vacancies have some constitutional ways to be resolved. The constitutional legislator dealt with the problem of permanent vacancy in Article 94 of the 2020 Constitution, which defined it in the following ways:

---

5- Omar Ben Saadallah, “The Vacancy of the Office of the President of the Republic in Maghrebian Republican Systems,” Master’s Thesis in Law, Constitutional Law Branch, University of Benyoucef Benkhedda, Algiers, 2008–2009, pp. 22–23.

6- Kamal Ja’lab, “Regulating the Case of Vacancy of the Office of the President of the Republic under the 2016 Amendment in Algeria,” Journal of Legal and Social Sciences, University of Djelfa, No. 12, December 2018, p. 216.

7- Nouwara Tariaa, “The Case of Vacancy of the Office of the President of the Republic in the Algerian and Tunisian Constitutions: A Comparative Study,” Algerian Journal of Legal, Economic and Political Sciences, University of Algiers, Vol. 53, No. 04, p. 80.

8- Dahmane Hamadou, “The Constitutional Crisis of the Vacancy of the Office of the President of the Republic,” Journal of Legal Studies, University of Saïda, Vol. 08, No. 01, May 2021, p. 1082.

9- Article 94 of the Constitutional Amendment of 2020.

10- Nouwara Tariaa, op. cit., pp. 80–81.

### **Firstly: Death**

The President of the Republic may face a definitive circumstance resulting in the permanent vacancy of his office, namely, his death, whether due to natural or non-natural causes.

#### **1- Definition of Death**

Death, as a reason for the President of the Republic's office to be empty, usually means that a natural person's life has come to an end. A death certificate is a formal way to prove that someone has died. The family gets one from the civil registry services at the local level.

The constitutional provisions do not delineate death nor expound on its causes; instead, they confine themselves to specifying the legal ramifications ensuing from it.<sup>11</sup>

Article 94 of the Algerian Constitution says, "If the President of the Republic resigns or dies, the Constitutional Court shall meet on its own and confirm the permanent vacancy of the presidency."<sup>12</sup>

#### **2- Types of Death**

There are two main reasons why a person may die: natural death, which happens without outside help (like old age), or non-natural death, which happens with outside help (like an accident or murder).

There are different ways to get ready for the transitional phase of natural death and non-natural death. In instances of natural death, the vacancy period typically unfolds without major complications. On the other hand, death from unnatural causes, like assassination, can cause big problems.

There have been two cases like this in Algeria where the president died. The first was in 1978, when President Houari Boumédiène died. On December 12, 1978, it was announced that he had died. The National People's Assembly met the next day, December 13, 1978, to confirm that the presidency was permanently vacant, as stated in paragraph 4 of Article 117 of the 1976 Constitution.<sup>13</sup>

The second time was when President Mohamed Boudiaf died. He had been asked to take over as president of Algeria in January 1992 after President Chadli Bendjedid stepped down. He was shot and killed on June 29, 1992, ending his time in office.<sup>14</sup>

### **Secondly: Resignation**

Resignation is a direct cause for the permanent vacancy of the office of the President of the Republic. The President can choose to leave his job on his own (voluntary resignation) or because someone else is forcing him to (mandatory resignation).<sup>15</sup>

#### **1- Definition of Resignation**

The word "resignation" comes from the verb *istaqala*. In Arabic, *istaqala al-qawm* means "the people left and went away," and *istaqala al-ra'is* means "the president left and gave up the presidency."<sup>16</sup>

---

11- Hamid Meziyani, op. cit., p. 432.

12- Dahmane Hamadou, op. cit., p. 1083.

13- Hamid Meziyani, op. cit., p. 432.

14- Asma Boukhenfouf, op. cit., p. 38.

15- Salihah Biyoush, "The Constitutional Regulation of the End of the Presidential Term under the 2016 Constitutional Amendment," *Al-Bahith Journal for Academic Studies*, University of Batna, No. 12, January 2018, p. 298.

16- Dahmane Hamadou, op. cit., p. 1084.

The Algerian Constitution does not clearly define resignation; it only lists the effects of it. This lack of information has caused legal experts to come up with their own definitions and ways to figure it out.<sup>17</sup>

André Hauriou, Jean Gicquel, and Pierre Gélard contend that personal agreements, political conflicts, and irrevocable obstacles are determinants that may precipitate resignation. Others have characterized it as the definitive and intentional decision made by the President of the Republic to vacate office, or more generally as the abdication of office, whether voluntary or compelled.<sup>18</sup>

The 1963 Constitution of Algeria was the first to say that a president could resign. It recognized two types of resignations:

- Dismissal in the form of resignation
- Ordinary resignation

Under the 1976 Constitution, Article 117 (as amended by Law No. 79-06) addressed resignation in two situations:

- Declaration of vacancy due to resignation following the lapse of 45 days of the President's suffering from a serious and chronic illness without recovery.
- Retention of procedures applicable in cases of resignation and death.

The 1989 Constitution kept the same rules about resigning and dying that were in the 1963 and 1976 Constitutions. In the same way, the 1996 Constitution, which was partially changed in 2008, kept the ideas from the 1989 text and added new ones as described in Article 88.<sup>19</sup>

Algeria experienced its first case of permanent vacancy due to resignation in 1992, with the resignation of President Chadli Bendjedid, in addition to other subsequent instances.<sup>20</sup>

## 2- Types of Resignation

- Resignation on your own terms When the President of the Republic wants to leave the presidency of his own free will and without any outside pressure,<sup>21</sup> this is called voluntary resignation or optional resignation. The President must publicly announce and send a written resignation to the constitutionally designated authorities. The President must want to resign, either because of a clear failure in his political duties or for a good health reason. Additionally, the competent authority must approve it within the time frame set by the constitution.<sup>22</sup>
- Mandatory Resignation: If a temporary impediment, which is defined as a serious and chronic illness, lasts for 45 days, the person must resign. When this time is up, a vacancy is declared through forced resignation. It may also be due to public pressure, like the threat of a coup d'état or a popular uprising, which are two of the most forceful reasons for presidents to resign.<sup>23</sup>

---

17- Salihah Biyoush, op. cit., p. 298.

18- Taher Zouaqri, *Reasons for the Dismissal of Authority in Constitutional and Comparative Law*, Dar wa Maktabat al-Hamed for Publishing and Distribution, Amman, Jordan, no edition, 2018, p. 42.

19- Taher Zouaqri, op. cit., pp. 43–45.

20- Hamid Meziyani, op. cit., p. 431.

21- Nawal Sadqi and Naja Ben Didah, "The Departure from the Office of the President of the Republic in Algeria between Text and Practical Requirements," *Algerian Journal of Legal and Political Sciences*, University of Tipaza, Vol. 58, No. 01, 2020, p. 412.

22- Taher Zouaqri, op. cit., pp. 40–41.

23- Salihah Biyoush, op. cit., p. 299.

## THE SECOND TOPIC: PROCEDURES FOLLOWED BY THE CONSTITUTIONAL COURT

The constitutional amendment of 2020 created the Constitutional Court, which is a constitutional body. The Algerian government gave this institution a number of advisory roles in addition to its constitutionally defined powers. One of the most important of these is its role in filling the vacancy of the President of the Republic. The lawmaker wants to make sure that state institutions keep running and that the office of the President is safe through these provisions.

### FIRST REQUIREMENT: THE ROLE OF THE CONSTITUTIONAL COURT IN DECLARING A TEMPORARY IMPEDIMENT

Before, the Constitutional Council was in charge of this job under Article 102 of the 2016 Constitution. The 2020 Constitution replaced it with the Constitutional Court, which is in charge of making sure that constitutional provisions are followed and used. The amendment preserved the Constitutional Court's authority to intervene in situations that could impact the presidency, as its attributes enable it to wield this power.

The most recent amendment tried to fix the problems with the 2016 constitutional amendment, especially those that had to do with the role and powers of the Constitutional Court.<sup>24</sup>

The institution has been given a number of powers that the Constitutional Council did not have before. These include the power to settle disagreements between branches of government, to explain what the Constitution means, and to give advice, such as when it is impossible to hold presidential and legislative elections and the deadlines need to be extended. They can also give advice on decisions made during a state of exception.<sup>25</sup>

Furthermore, the Constitutional Court was given a crucial task that cannot be disregarded under the 2020 constitutional amendment: figuring out if there is a barrier that affects the President of the Republic. According to Article 94, "The Constitutional Court shall meet by operation of law and without delay if the President of the Republic is unable to perform his duties due to a serious and chronic illness." A three-fourths (3/4) majority of its members must agree to recommend that Parliament announce the obstacle once it has established its existence via all suitable procedures.

It has been very hard to verify the existence of such an impediment because the Constitution does not clearly say how it should be done. This is especially bad because the Constitutional Court is a constitutional authority, not a medical body. This lack of clarity brings up a number of questions: Which groups should the Court talk to? Should it depend on the President's personal doctor or on a separate group of specialized, sworn doctors? Should it make its choice based on what the President said or on a medical report that was sent in?<sup>26</sup>

Once the Constitutional Court determines the existence of the impediment, it recommends to Parliament, by a three-fourths majority of its members, that the impediment be officially recognized. Then, Parliament must confirm the declaration with a two-thirds majority of its

---

24- Laila Mahdid, "The Role of the Constitutional Court in the Case of Vacancy of the Office of the President of the Republic under the 2020 Constitutional Amendment," *Global Politics Journal*, University of Bumerdes, Vol. 05, No. 03, 2021, p. 658.

25- Farid Dabbousha, *The Constitutional Court in Algeria: A Study in Light of the 2020 Constitutional Amendment and Various Legislative Texts, Supported by Comparative Legislations*, Bayt al-Afkar, Casablanca, Algeria, 1st ed., 2023, p. 53.

26- Dahmane Hamadou, op. cit., p. 1088.

members in both chambers. In this case, the President of the Council of the Nation becomes the Acting Head of State for a maximum of forty-five days. If the problem still exists at the end of this time, the person must resign, and a vacancy is declared.<sup>27</sup>

The constitutional and legal rules that govern the Court's role leave out a number of important things. They only think of a serious and long-term illness as an impediment, without thinking about other possible situations, like the President leaving the country or suddenly disappearing. This makes it harder for the Court to deal with other situations that could happen. This might leave a hole in the Constitution.

The constitutional drafting also makes a conceptual mistake by linking serious and chronic illness to a temporary inability of the President to do his job. From a medical point of view, a serious and chronic illness is permanent and therefore a permanent barrier. There is also a need for a clear constitutional rule about how medical bodies and health experts should tell the Constitutional Court about the President's health so that the Court can figure out what is wrong and make a ruling.<sup>28</sup>

The conditions for declaring an impediment to the exercise of presidential functions may be summarized as follows:

- The impediment must be a legally defined condition, specifically a severe and persistent illness, necessitating the simultaneous fulfillment of both criteria. This requirement was established in Article 102 of the 2016 constitutional amendment and was reiterated, unchanged, in the 2020 constitutional amendment.
- The impediment must be associated with a designated timeframe, signifying the possibility of the President's recovery. The constitutional legislator has given the appropriate constitutional authorities the power to decide when this period starts and when the impediment is confirmed.
- The serious and chronic illness must be accompanied by the President's inability to perform his duties due to incapacity.
- By law, the Constitutional Court must meet to find out if the problem exists, using all available means of verification.
- Parliament, in both of its chambers, must meet to confirm the temporary impediment.
- The permanent vacancy must be announced in the same way as the temporary one. Because of this, the Constitution says that the President has resigned.<sup>29</sup>

## **SECOND REQUIREMENT: THE ROLE OF THE CONSTITUTIONAL COURT IN DECLARING A PERMANENT IMPEDIMENT**

Pursuant to the provisions established by the constitutional legislator:

“The Constitutional Court will convene *ex officio* to confirm the permanent vacancy of the presidency in the event of the President of the Republic's resignation or death. It will then promptly forward the certificate of declaration of permanent vacancy to Parliament, which must meet immediately.”

In these situations, the President of the Council of the Nation takes over as Head of State for up to ninety days, during which time presidential elections must be held.

If the President of the Republic resigns or dies at the same time as there is a vacancy in the presidency of the Council of the Nation, the Constitutional Court must meet and unanimously

---

27- Laila Mahdid, *op. cit.*, p. 659.

28- *Ibid.*, pp. 665–666.

29- Laila Mahdid, *op. cit.*, p. 660.

agree that both the presidency of the Republic is permanently vacant and the President of the Council of the Nation is unable to do his or her job. In this case, the President of the Constitutional Court takes on the role of Head of State. This arrangement shows how important the Constitutional Court is for keeping institutions going and stopping a power vacuum<sup>30</sup>.

Article 96 of the 2020 Constitution says that only the President of the Republic has certain powers. As a result, the Acting Head of State cannot use these powers if there is a problem. For instance, the court can't be changed or dissolved until the new President takes office.

Additionally, the Prime Minister must step down if he runs for president. In these situations, the Acting Head of State will choose a member of the government to be the Prime Minister.

If the President of the Council of the Nation can't do his job, the President of the Constitutional Court takes over as Head of State. The goal of all of these steps is to keep the peace and make sure that constitutional institutions keep running<sup>31</sup>.

Still, the issue of the Constitutional Court's independence is still very controversial because the executive branch, especially the President of the Republic, could have an effect on it by being able to choose the Court's president. The 2020 constitutional amendment added protections to make the Court more independent, like letting constitutional law professors choose six members, but these changes are still not enough to ensure the Court's full independence, which is necessary for it to work properly.<sup>32</sup>

### **THE THIRD TOPIC: PROCEDURES FOLLOWED BY PARLIAMENT**

Parliament is one of the most important parts of the government because it speaks for the people. At first, it had a unicameral system with only the National People's Assembly. Later, a second chamber called the Council of the Nation was added. If the President of the Republic is unable to do his or her job for a short time or for good, Parliament plays a big part. In these situations, the President of the Council of the Nation must call both chambers to meet together to discuss the Constitutional Court's suggestion that there is a problem with the President doing his job.

### **THE FIRST TOPIC: COMPOSITION OF PARLIAMENT**

Parliament is composed of two chambers, each of which exercises its own powers independently. However, in certain cases specified by the Constitution, Parliament convenes in a joint session of both chambers. These two chambers are:

#### **Firstly: The National People's Assembly**

The first part of Parliament is the National People's Assembly. According to Article 122 of the 2020 Constitution, deputies are elected for a five-year term through direct, secret, and universal suffrage. The same article says that deputies can only serve two terms in parliament, whether they are consecutive or not.

According to Article 191 of Ordinance No. 21-01, members of the National People's Assembly are elected for a five-year term through proportional representation, using an open list with preferential voting and no merging of lists.<sup>33</sup>

---

30- See Article 94 of the Constitutional Amendment of 2020.

31- Laila Mahdid, *op. cit.*, p. 662.

32- Dahmane Hamadou, *op. cit.*, p. 1089.

33- Wahiba Haboush, "The Legal System of the Election of the People's National Assembly in Light of Ordinance No. 21-01 Containing the Organic Law on Elections," *Global Politics Journal*, Mohamed Bouguerra University, Boumerdes, Algeria, Vol. 05, No. 02, 2021, p. 274.

The structure of the National People's Assembly includes:

- The President of the National People's Assembly is in charge of its meetings and debates, and he or she represents the Assembly at both the national and international levels. The President also leads the meetings of the Bureau of the Assembly, the Conference of Presidents, and the Coordination Body. They are in charge of the Assembly's administrative services, write its draft budget, sign off on recommendations for international parliamentary cooperation, and send cases to the Constitutional Court when necessary.<sup>34</sup>
- The Bureau of the People's National Assembly is the second most important group after the presidency because of the wide range of powers it has. Only members of parliamentary groups, which are political parties that have won at least ten seats, can take part in it. These groups get Vice-President positions based on how many people they represent. If there is a disagreement, the parliamentary groups make a list, or the Vice-Presidents are chosen by a ballot with multiple names.<sup>35</sup>
- Standing Committees: The People's National Assembly has twelve standing committees. These committees are formed at the start of the legislative term and last for one year, but they can be renewed in whole or in part. Members of these committees must be present for their meetings. Proxy voting is not allowed, and members who don't show up without a good reason are not allowed to miss meetings. Half of the members of a committee must be present for the meeting to be valid. But if one-third of the members are there, the meeting may still be valid. If the quorum is not met at first, a second meeting is held.<sup>36</sup>

### **Secondly: The Council of the Nation**

The 1996 Constitution's Article 98, paragraph 1, set up the Council of the Nation as the second chamber of Parliament. This was the first time the Algerian Constitution used a bicameral parliamentary system. This chamber is different from the first one, the People's National Assembly, in both its makeup and the way people join it, which is a mix of election and appointment<sup>37</sup>.

Two-thirds (2/3) of the members of the Council of the Nation are elected indirectly and by secret ballot. Each wilaya gets two seats, which are filled by members of municipal and provincial people's assemblies.<sup>38</sup>

The President of the Republic appoints the last one-third (1/3) of the members from among national leaders and people with the right qualifications in the fields of science, business, economics, and social issue.

---

34- Azzouber Ben Aoun, "The Legislative Body in Algeria and Its Ideological Dimensions: The People's National Assembly as a Model," *Journal of Legal and Social Sciences*, University of Djelfa, Vol. 7, No. 1, 2022, p. 1064.

35- Chaabane Daffaf, "Proportional Representation and Its Effect on Reshaping the People's National Assembly and the Performance of Political Parties," *Professor Researcher Journal for Legal and Political Studies*, University of Hadj Lakhdar, Batna, Vol. 8, No. 2, December 2023, p. 378.

36- Walid Cherit, "The Legislative Authority through Algerian Constitutional Development," *Doctoral Thesis in Public Law*, Faculty of Law and Political Science, Aboubakr Belkaid University, Tlemcen, 2011–2012, p. 32.

37- Amina Hamira, "The Council of the Nation as a Representative of Regional Communities," *International Journal of Legal and Political Research*, Faculty of Law, University of Algiers 1, Vol. 06, No. 02, October 2022, p. 394.

38- See Article 121 of the Constitutional Amendment of 2020.

The Council of the Nation's term is six years, and every three years, half of its members are replaced. No one can serve more than two terms in Parliament, whether they are consecutive or not.<sup>39</sup>

The composition of the Council of the Nation is as follows:

- The Council of the Nation elects the President by secret ballot from among its members. A show of hands is used to choose a winner if there is only one candidate. A candidate is declared elected when they get more than half of the votes. When there are more than one candidate, the one who gets the most votes wins. If no candidate gets an absolute majority within 24 hours, a second round of voting is held. The candidate who gets a relative majority wins. If there is a tie, the oldest candidate is the winner.
- The Bureau of the Council of the Nation is made up of the President and five Vice-Presidents, who are elected for a one-year term that cannot be renewed. One of its main jobs is to plan the sessions and look over the draft budget.
- The Coordination Body is made up of the heads of parliamentary groups, members of the Bureau, and the chairs of standing committees. It is an important advisory body that helps set the agenda for sessions and makes sure that parliamentary groups have the resources they need to do their jobs.
- There are nine committees in total, and each one is made up of Council members who are chosen for a one-year term that can be renewed.
- The Conference of Presidents is made up of the President of the Council of the Nation, the heads of parliamentary groups, and the chairs of standing committees. It is in charge of planning and evaluating the Council's sessions, coordinating the work of the standing committees, organizing their meetings, and making sure that the Council's activities are carried out properly.<sup>40</sup>

## **SECOND REQUIREMENT: THE ROLE OF PARLIAMENT IN THE EVENT OF A VACANCY IN THE OFFICE OF THE PRESIDENT OF THE REPUBLIC**

Parliament plays an important role in cases where the presidency becomes vacant, whether the impediment is temporary or permanent, as in the cases of resignation or death.

### **Firstly: If the Impediment Is Temporary**

Article 94 of the 2020 Constitution says that if the President of the Republic can't do his job because of a serious and long-lasting illness, the Constitutional Court must meet right away. After confirming the existence of this impediment through all necessary methods, it shall propose to Parliament, by a three-quarters majority of its members, that the impediment be officially recognized.

Parliament, meeting in a joint session of both chambers, declares the President's impediment by a two-thirds majority of its members. The President of the Council of the Nation is then given the job of Head of State for a maximum of forty-five (45) days, during which time he or she must carry out the duties of the presidency as set out in Article 96 of the Constitution.

For Parliament to say that there is such an obstacle, both chambers must meet in a joint session to talk about the Constitutional Court's proposal. The meeting must take place, and it can happen during a regular session, an extraordinary session, or even during a break.

---

39- See Article 122 of the Constitutional Amendment of 2020.

40- Ibrahim Tounsir, "The Composition of the Council of the Nation and Its Legislative Powers in the Algerian Constitutional System," *Al-Haqiqa Journal*, Ahmed Draia University, Adrar, No. 38, pp. 160–161.

This clause makes it clear that Parliament's role is very important and necessary when the president is sick, but not so much when they resign or die.<sup>41</sup>

### **Secondly: If the Impediment Is Permanent**

As was said before, a permanent problem comes up when someone resigns or dies. In these situations, Parliament is very important for making sure that state institutions keep running. Article 94, paragraph 4 says:

"If the President of the Republic resigns or dies, the Constitutional Court will automatically meet and confirm that the presidency is permanently vacant." It will send the certificate declaring the vacancy to Parliament right away, and Parliament must meet right away.<sup>42</sup>

### **Conclusion:**

The constitutional legislator has limited the number of situations that can keep the President of the Republic from doing his job. Because this office is so important, the legislator tried to make rules for these kinds of situations to make sure that state institutions would keep running. This intent is clear in the role of the Constitutional Court, which checks to see if there is a legal reason why the President can't do his job and then declares it. It is also clear in the role of Parliament, which fills the institutional gap by giving the Council of the Nation the interim presidency for up to 90 days while presidential elections are held.

Following our study and analysis, we have reached a set of key recommendations:

- Set up ways to make sure that governance continues in case of a vacancy in authority during a national crisis, like a natural disaster, war, or public health emergency. These situations are not currently covered by the constitutional legislator.
- Use a variety of methods and tools to check the President's health-related incapacity to make it more credible and open.
- Give a clear definition of "serious chronic illness," since the way it is currently written is too vague and can mean different things to different people.
- Give the Constitutional Court more power to declare a vacancy and give certain bodies the power to tell it about a vacancy in the presidency, while still letting it act on its own.
- Set up strict rules for getting rid of the President if they refuse to resign even though they are clearly unable to do their job.
- Change the time frame for holding presidential elections from the current 90 days to a shorter one to avoid possible constitutional crises.

### **Bibliography List**

#### **First: Legal Texts**

- Article 94 of the Constitutional Amendment of 2020.
- Article 121 of the Constitutional Amendment of 2020.
- Article 122 of the Constitutional Amendment of 2020.

#### **Second: Books**

- Zouaqri, Taher, Reasons for the Dismissal of Authority in Constitutional and Comparative Law, Dar wa Maktabat al-Hamed for Publishing and Distribution, Amman, Jordan, no edition, 2018.

---

41- Dahmane Hamadou, op. cit., p. 1091.

42- See Article 94 of the Constitutional Amendment of 2020.

- Dabbousha, Farid, The Constitutional Court in Algeria: A Study in Light of the 2020 Constitutional Amendment and Various Legislative Texts, Supported by Comparative Legislations, Bayt al-Afkar, Casablanca, Algeria, 1st ed., 2023.

**Third: Theses**

- Boukhenfouf, Asma, The Case of Vacancy in Constitutional Institutions in Algeria, Doctoral Thesis (Third Cycle), Specialization in State and Public Institutions, Faculty of Law and Political Science, Mohamed Lamine Debaghine University, Sétif, 2023–2024.
- Ben Saadallah, Omar, The Vacancy of the Office of the President of the Republic in Maghrebian Republican Systems, Master's Thesis in Law, Constitutional Law Branch, University of Benyoucef Benkhedda, Algiers, 2008–2009.
- Cherit, Walid, The Legislative Authority through Algerian Constitutional Development, Doctoral Thesis in Public Law, Faculty of Law and Political Science, Aboubakr Belkaid University, Tlemcen, 2011–2012.

**Fourth: Articles**

- Meziyani, Hamid, "The Problematic of the Vacancy of the Office of the President of the Republic in Algeria between Text and Practice," The Academic Journal of Legal Research, University of Béjaïa, Vol. 11, No. 03 (Special Issue), 2020.
- Boukhenfouf, Asma, "The Case of Vacancy in Constitutional Institutions in Algeria," Doctoral Thesis excerpt, Mohamed Lamine Debaghine University, Sétif, 2023–2024.
- Ja'lab, Kamal, "Regulating the Case of Vacancy of the Office of the President of the Republic under the 2016 Amendment in Algeria," Journal of Legal and Social Sciences, University of Djelfa, No. 12, December 2018.
- Tariaa, Nouwara, "The Case of Vacancy of the Office of the President of the Republic in the Algerian and Tunisian Constitutions: A Comparative Study," Algerian Journal of Legal, Economic and Political Sciences, University of Algiers, Vol. 53, No. 04.
- Hamadou, Dahmane, "The Constitutional Crisis of the Vacancy of the Office of the President of the Republic," Journal of Legal Studies, University of Saïda, Vol. 08, No. 01, May 2021.
- Biyoush, Salihah, "The Constitutional Regulation of the End of the Presidential Term under the 2016 Constitutional Amendment," Al-Bahith Journal for Academic Studies, University of Batna, No. 12, January 2018.
- Sadqi, Nawal and Ben Didah, Naja, "The Departure from the Office of the President of the Republic in Algeria between Text and Practical Requirements," Algerian Journal of Legal and Political Sciences, University of Tipaza, Vol. 58, No. 01, 2020.
- Mahdid, Laila, "The Role of the Constitutional Court in the Case of Vacancy of the Office of the President of the Republic under the 2020 Constitutional Amendment," Global Politics Journal, University of Boumerdes, Vol. 05, No. 03, 2021.
- Haboush, Wahiba, "The Legal System of the Election of the People's National Assembly in Light of Ordinance No. 21-01 Containing the Organic Law on Elections," Global Politics Journal, Mohamed Bouguerra University, Boumerdes, Algeria, Vol. 05, No. 02, 2021.
- Ben Aoun, Azzouber, "The Legislative Body in Algeria and Its Ideological Dimensions: The People's National Assembly as a Model," Journal of Legal and Social Sciences, University of Djelfa, Vol. 7, No. 1, 2022.
- Daffaf, Chaabane, "Proportional Representation and Its Effect on Reshaping the People's National Assembly and the Performance of Political Parties," Professor Researcher

Journal for Legal and Political Studies, University of Hadj Lakhdar, Batna, Vol. 8, No. 2, December 2023.

- Hamira, Amina, "The Council of the Nation as a Representative of Regional Communities," International Journal of Legal and Political Research, Faculty of Law, University of Algiers 1, Vol. 06, No. 02, October 2022.
- Tounsir, Ibrahim, "The Composition of the Council of the Nation and Its Legislative Powers in the Algerian Constitutional System," Al-Haqiqa Journal, Ahmed Draia University, Adrar, No. 38.