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Dr. BenRahmoune Abdelhamid¹, Dr. Taieb Frodjen², Dr. Saad Louglaib³

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| Abstract The Algerian political system, like other political systems, is based on the existence of three branches: the executive branch, the legislative branch, and the judicial branch. Each branch has its own powers and functions in accordance with the principle of separation of powers, which is a key criterion for distinguishing the relationships among these branches within the state. The focus of our study in this research paper is primarily on the status and position of the President of the Republic as the foremost figure in the executive branch and his relationship with the First Minister or Head of Government, as applicable, under the Constitutional Amendment of 2020. This amendment emphasized the strengthening of the legal status of the President of the Republic and his superiority in all areas, establishing him as the most important institution within the executive branch. It also worked to enhance his position, both in relation to the other branches and at the expense of the First Minister or Head of Government, given that he is the second party in the executive authority. | | |
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Introduction

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The Status of the President of the Republic and the First Minister or Head of Government, as the Case May Be Under the Constitutional Amendment of 2020.

BenRahmoune Abdelhamid, Taieb Frodjen, Saad Louglaib

The Algerian political system has consistently emphasized the status and position of the President of the Republic in all its successive constitutions.

The first constitution of 1963 affirmed the President's position in relation to all state authorities, and the legislator reinforced this in the 1976 constitution, followed by constitutional amendments in 1979 and 1980, leading to the 1989 constitution, which introduced various reforms, including the duality of the executive branch by creating the position of Prime Minister as the second-in-command within the executive authority.

In 1996, the Algerian legislature attempted to change the structure of the legislative authority without changing the executive authority or the powers of the Prime Minister. The status and powers of the authorities remained unchanged in the 2002 constitutional revision. In the 2008 constitutional amendment, the term 'Prime Minister' replaced 'Head of Government', which was seen by some as a mere formal change due to the extensive powers of the President at the expense of the Prime Minister.

The 2016 constitutional amendment affirmed that the President of the Republic is the Head of State, the embodiment of national unity and the protector of the Constitution, representing it both internally and externally. This established the President as a significant figure in the political system, as the main actor and the main representative of the will of the people, thus giving him a prominent position in relation to other constitutional institutions.

However, any constitutional amendment must include new additions and various modifications, whether positive or negative. The subject we are discussing today, which concerns the status and position of the President of the Republic and the Prime Minister or Head of Government, as the case may be, and their relationship, is of great importance to legal scholars and constitutional practitioners. It aims at reorganising the relations and powers within the executive authority itself and its relations with other authorities, thus reinforcing the principle of separation of powers, which has been a core aspect of every constitutional process since independence until today. This principle has been further developed and enshrined in the Constitution since the 1989 Constitution.

The importance of studying this topic lies in exploring the legal status of the President of the Republic under the 2020 constitutional amendment and his relationship with the Prime Minister or Head of Government, as applicable. It seeks to highlight the influence between the President and the Prime Minister, particularly in shaping policies and making decisions, especially with the increasing prominence of the President over other constitutional institutions, including legislative and judicial bodies.

The study aims to address the significant developments introduced by the Algerian legislator in the 2020 constitutional amendment regarding the status and position of the President of the Republic and the Prime Minister or Head of Government, along with the powers of the latter in light of the President's dominance across various fields. It also aims to identify the main pillars supporting the legal status and position of both the President and the Prime Minister within the Algerian political system.

It is noteworthy that the methodology used is the descriptive analytical approach, which allows us to study and analyse the constitutional texts introduced by the 2020 constitutional amendment, examining how the president assumes the presidency and his powers to appoint the prime minister or head of government, as the case may be, and clarifying the status and position of both the president and the prime minister according to the context. In addition, a comparative method may be used at times to compare the 2020 constitutional amendment with previous constitutions that have shaped the Algerian political system.

The importance of the issue of the status and powers of the President and the Prime Minister or Head of Government leads us to ask the following question:

How does the constitutional amendment of 2020 contribute to enhancing the status of the President of the Republic and the Prime Minister or Head of Government? How does it affect the relationship between the Prime Minister or Head of Government and the President of the Republic?

From this issue, several sub-questions can be posed as follows:

1. What is the impact of the 2020 constitutional amendment on the status of the President of the Republic in relation to the Prime Minister or Head of Government, as applicable?
2. What are the factors that support the status of the President of the Republic under the 2020 constitutional amendment?
3. What is the status and position of the Prime Minister or Head of Government?

4. To what extent does the Algerian constitutional founder recognize the responsibilities of the President of the Republic and the Prime Minister?

To address this issue and the sub-questions, this research paper can be divided into two main sections:

Section One: The Legal Status of the President of the Republic and the Prime Minister or Head of Government in Light of the 2020 Constitutional Amendment.

This section includes the following:

1. The Status and Position of the President of the Republic.
2. The Status of the Prime Minister or Head of Government.

Section Two: The Relationship Between the President of the Republic and the Prime Minister or Head of Government, as Applicable.

This section is divided into:

1. The Dominance of the President of the Republic Over the Executive Authority.
2. The Responsibilities of the President of the Republic and the Prime Minister or Head of Government, as Applicable.

Section One: The Legal Status of the President of the Republic and the Prime Minister or Head of Government in Light of the 2020 Constitutional Amendment

The President of the Republic occupies an important position in the Algerian political system, being the central figure of the State and playing a primary role within the system through his relationship with all other authorities and constitutional bodies. He has considerable power and authority, a fact confirmed by all successive constitutions, whether during the period of revolutionary legitimacy from 1963 to 1989 or the period of popular legitimacy since 1989¹. The Algerian political system has consistently granted the president a prominent status, starting with the first constitution of 1963², followed by the constitution of 1976³, the amendments of 1979⁴ and 1980⁵, the constitution of 1989⁶, the constitution of 1996⁷ and its

¹ - Monira Belourghi, "The Legal Status of the President of the Republic in Algeria After the Constitutional Amendment of 1996 and Its Impact on the Political System," Master's Thesis, Faculty of Law and Political Science, Department of Law, Mohamed Khider University of Biskra, 2013-2014, p. 15.

² - Constitution of September 8, 1963, Official Gazette of the Algerian Republic, No. 64, dated September 10, 1963.

³ - Order 76-97 dated November 22, 1976, concerning the issuance of the Constitution of the People's Democratic Republic of Algeria, No. 94, dated November 24, 1976.

⁴ - Law No. 79-06 dated July 7, 1979, concerning the constitutional amendment of the People's Democratic Republic of Algeria, No. 28, dated July 10, 1979.

⁵ - Law No. 80-01 dated January 12, 1980, concerning the constitutional amendment of 1980 for the People's Democratic Republic of Algeria, Official Gazette of the Algerian Republic, No. 03, dated January 15, 1980.

⁶ - Presidential Decree No. 89-18 dated February 28, 1989, concerning the publication of the text of the constitutional amendment approved in the referendum of February 23, 1989, Official Gazette of the People's Democratic Republic of Algeria, No. 09, dated March 1, 1989.

⁷ - Presidential Decree No. 96-438 dated December 7, 1996, concerning the issuance of the text of the constitutional amendment approved in the referendum of November 28, 1996, Official Gazette of the Algerian Republic, No. 76, dated December 8, 1996.

subsequent amendments of 2002, 2008¹ and the constitutional amendment of 2016², culminating in the most recent amendment of 2020³.

However, our focus on the status of the President and the Prime Minister and their relationship will be based on the amendment issued by Presidential Decree No. 20-442 of 30 December 2020 on the constitutional amendment approved in the referendum of 1 November 2020, published in the Official Journal of the Algerian Republic No. 82 of 30 December 2020.

Dr Saïd Boualchir notes that modern legal thinking on the subject of executive power includes the powers and administrative authorities, including the government, parliamentary work and its powers in normal and extraordinary circumstances⁴. However, these powers may be concentrated in the hands of a single individual or shared between two bodies, as is the case in the French and Algerian systems, with varying powers between the President and the Prime Minister⁵.

In order to gain a better understanding of this subject, we can divide this section into two parts:

1. The status and position of the President of the Republic.
2. The status of the Prime Minister or Head of Government.

First: The Status and Position of the President of the Republic

Studying the status of the head of state in all political systems can only be achieved through the presence of foundations and factors that grant him an enhanced position within this system, as established by constitutional and legal texts. To explore the status and position of the President of the Republic in the Algerian political system, it is essential to analyze the key constitutional texts provided by the Algerian legislator under the 2020 constitutional amendment.

Among the foundations and pillars that grant the head of state a distinguished status is the manner in which the presidency is assumed, along with the availability of constitutional mechanisms to protect his position. In this context, the President of the Republic in the Algerian political system occupies a prominent status for several reasons, including being elected by the people and enjoying extensive and varied powers. Additionally, he represents the head of state and the unity of the nation, ensuring national territorial integrity and sovereignty under all circumstances. He is the protector of the constitution and embodies the state both domestically and internationally⁶.

To focus more on the study of the President's status in the Algerian political system, we can address the following points:

- The Methods of Electing the President of the Republic Under the 2020 Constitutional Amendment.
 - The Constitutional Mechanisms to Protect the Position of the President of the Republic.
1. The Process of Assuming the Presidency Under the 2020 Constitutional Amendment.

The 2020 constitutional amendment, like other constitutions, stipulates the manner of electing the President under specific constitutional conditions, regulated by organic laws that clarify the organization of the electoral process. Article 85 of the 2020 constitutional amendment states: "The President of the Republic is elected by direct and secret universal suffrage, and the election is won by obtaining an absolute majority of the expressed votes. An organic law shall specify the procedures for implementing the provisions of this article." Thus, the President derives his power and authority from popular election.

¹ - Law No. 08-19 dated November 15, 2008, concerning the constitutional amendment, Official Gazette of the People's Democratic Republic of Algeria, No. 63, dated November 16, 2016, p. 08.

² - Law No. 16-01 dated March 6, 2016, concerning the constitutional amendment, Official Gazette of the Algerian Republic, No. 14, dated March 7, 2016, p. 02.

³ - Presidential Decree No. 20-442 dated December 30, 2020, concerning the issuance of the constitutional amendment approved in the referendum of November 1, 2020, Official Gazette of the Algerian Republic, No. 82, dated December 30, 2020, p. 03.

⁴ - Dr. Boualchir Said, "The Algerian Political System: An Analytical Study of the Nature of the Government System in Light of the 1996 Constitution - The Executive Authority," Part Three, University Publications, 2013, p. 12.

⁵ - Same reference, p. 13.

⁶ - Article 84 of the constitutional amendment of 2020.

Maurice Duverger argues that the President of the Republic exercises authority based on the constitution¹, which is derived from popular election, regardless of the methods and ways to secure the presidency. Thus, he holds supreme political authority in the state. The Algerian legislator has defined the conditions necessary for candidacy for the presidency in Article 87 of the constitution, which includes being an Algerian citizen and not having acquired foreign nationality. This aims to ensure that every person of Algerian origin is more connected to their homeland and to protect societal interests from being led by non-Algerians².

The same article stipulates that every candidate for the presidency must adhere to the Islamic faith and be at least 40 years old at the time of submitting the candidacy file. Additionally, the candidate must have resided in the country for at least ten years, be fulfilling national service obligations or provide a legal justification for not doing so, and demonstrate that their spouse holds Algerian nationality. The candidate must also enjoy full civil and political rights and prove participation in the November 1 revolution if born before 1942. The legislator has elaborated on this article in detail according to the organic law concerning elections of 2021.

The organic law concerning the electoral system, issued by Ordinance No. 21-01³ dated March 10, 2021, addressed the election of the President of the Republic and referendum consultations within Chapter Six. The legislator dedicated the first section of this chapter to the presidential elections, stating in Article 247: "The President of the Republic is elected by a single-name ballot in two rounds by an absolute majority of the expressed votes." Furthermore, the legislator regulated the procedures for submitting candidacy files, the timeframes, and the process for presenting the necessary signatures for candidacy⁴.

The constitutional founder specified the presidential term as five years, with no one allowed to serve more than two consecutive or non-consecutive terms. In the event of resignation from the presidency, this counts as a full term. The legislator's goal is to delineate and limit presidential terms, contrasting with the ambiguous and open candidacy for the presidency under the 2008 constitutional amendment, which allowed for indefinite re-election as stipulated in Article 74.

The Algerian legislator later restricted the terms under Article 88 of the 2016 constitutional amendment, which stated that the President could be re-elected only once, thus allowing the possibility of re-election for a second term while leaving the terms somewhat ambiguous regarding re-candidacy after a certain period.

Consequently, the President derives his legitimacy from the will of the voters who have cast their votes for him, making him the head of state for all Algerians, regardless of their political orientations or beliefs. His election by the people grants him significant moral weight in confronting all authorities, as he represents the nation as a whole and not just a specific faction⁵.

2. Constitutional Mechanisms to Protect the Position of the President of the Republic

The position of the President of the Republic, elected by the people, grants him extensive powers derived from the constitution. The relationship between the President and the people serves as a strong means of communication and public orientation, as the President is elected by the populace⁶. To achieve full legitimacy, the constitutional founder must provide the President with various constitutional and legal mechanisms to protect his position, especially while performing his duties. These mechanisms can be addressed in the following points:

1. Representation and National Unity:

The President of the Republic in the Algerian political system is the head of state who embodies national unity, protects the integrity of national territory and sovereignty, and safeguards the constitution. He represents the state both domestically and internationally and has the authority to directly address the nation, as affirmed by Article 84 of the 2020 constitutional amendment.

¹ - Belourghi Monira, "The Role of the President of the Republic in the Legislative Process in Comparative Systems," Doctoral Thesis, Faculty of Law and Political Science, Department of Law, Mohamed Khider University of Biskra, 2018-2019, p. 213.

² - Dr. Boualchir Said, "The Algerian Political System: An Analytical Study of the Nature of the Government System in Light of the 1996 Constitution - The Executive Authority," previous reference, p. 17.

³ - Order No. 21-01 dated March 10, 2021, concerning the organic law related to the electoral system, Official Gazette of the Algerian Republic, No. 17, dated March 10, 2021, p. 35.

⁴ - For more details, see Articles 253 and 254 of the same organic law.

⁵ - Rdad Nourredine, "The Constitutional and Legal Foundations for Strengthening Executive Power in Arab Countries – Algeria and Morocco as a Model," Journal of Law and Political Science, Abbes Laghrour University, Khencela, No. 3, January 2015, p. 196.

⁶ - Belourghi Monira, Doctoral Thesis, previous reference, p. 212.

2. Wide-Ranging Powers:

The constitutional founder has reinforced the President's position by emphasizing his extensive powers, including being the supreme commander of the armed forces and responsible for national defense. A significant new provision in the recent amendment allows the President to send units of the People's National Army abroad after obtaining the approval of two-thirds of the members of both houses of Parliament, as stated in the second paragraph of Article 91.

3. Appointment Powers:

The Algerian legislator grants the President the authority to appoint the Prime Minister or Head of Government, as applicable, with the power to terminate their duties, as outlined in the fifth paragraph of Article 91. Additionally, the President has the power to appoint government members based on the Prime Minister's proposals¹.

4. Electoral Powers:

The President has the authority to convene the electorate for specific electoral events, as stipulated in the new paragraphs 10 and 11 of Article 91, including the powers to call for early presidential elections.

5. Direct Appeal to the People:

The President can resort directly to the people on any matter of national importance through a referendum, according to the ninth paragraph of Article 91

6. Foreign Policy Authority:

The President is responsible for determining and directing the nation's foreign policy, as stated in the third paragraph of Article 91.

7. Judicial Powers:

The President has the right to intervene in the judicial authority, including the power to grant pardons and reduce or substitute penalties, as mentioned in the eighth paragraph of the same article. The Algerian legislator also recognizes the President's powers to intervene in the judiciary as the head of the Supreme Judicial Council².

8. Judicial Appointments:

The President has the right to appoint judicial positions through presidential decrees after consulting the Supreme Judicial Council, as specified in the second paragraph of Article 181

9. Appointments to High Positions:

The constitutional founder has conferred upon the President the authority to appoint high-ranking positions in the country, including civil and military roles, appointments made in the Council of Ministers, and high judicial positions such as the President of the Supreme Court, the President of the State Council, judges, the Secretary-General of the Government, governors, and security officials, as confirmed by Article 92 of the latest constitutional amendment in 2020.

10. Legislative Authority:

The legislator has affirmed the President's powers in relation to the legislative authority by allowing him to address Parliament directly to guide the general policy of the legislative authority in line with citizens' demands and aspirations, as stated in Article 150.

11. Appointment of Senate Members:

The President has the right to appoint one-third of the members of the Senate from among national figures and competencies in scientific, professional, economic, and social fields, as confirmed by the latest constitutional amendment in Article 121, paragraph three³.

12. Amendment Initiative:

¹ - Article 104 of the constitutional amendment of 2020.

² - Article 180 of the constitutional amendment of 2020.

³ - Article 121 of the same amendment states, "The People's National Assembly is elected by direct and secret universal suffrage, and two-thirds of the members of the Senate are elected by indirect and secret suffrage, with two seats from each province among the members of the municipal and provincial popular councils, and the President of the Republic appoints the remaining one-third of the members of the Senate from among national figures and competencies in scientific, professional, economic, and social fields."

The President has full authority to initiate amendments to the supreme document of the country, the constitution. The constitutional founder has granted the President the power to propose constitutional amendments under specific legal and constitutional conditions, which must be submitted to a popular referendum after being voted on by both houses of Parliament, as stipulated in Article 219.

Second: The Status of the Prime Minister or Head of Government Under the 2020 Constitutional Amendment

The concept of the executive authority encompasses the President of the Republic and the ministers¹, including their assistants—those entrusted with the implementation of laws and the management of public facilities. The Algerian constitutional founder has expressed his desire to adopt the idea of duality in every constitution and amendment since independence, starting with the 1988 constitutional amendment that established the position of Prime Minister. Although mentioned in the 1976² constitution, it emphasized that the Prime Minister is merely an assistant.

In 1989, the constitution introduced new amendments to the Algerian political system, replacing the term “functions” with “authorities.” The executive authority was thus assigned to the President of the Republic, alongside a Prime Minister appointed and dismissed by the President, with various powers conferred upon him³.

Since 1989, the Algerian constitutional founder has adhered to a dual executive system until the 2020 constitutional amendment, which confirmed the formation of the executive authority as comprising the President of the Republic and the Prime Minister or Head of Government, as applicable. The Prime Minister’s appointment and dismissal are governed by Article 91, paragraph five, and the President can delegate some of his powers to the Prime Minister, as stated in Article 93.

According to Article 103 of the 2020 constitutional amendment, the government is led by a Prime Minister if the legislative elections result in a presidential majority, or by a Head of Government if the elections yield a parliamentary majority.

Given the Algerian legislator’s adoption and affirmation of duality in executive power, we will explore the powers of the Prime Minister or Head of Government under the constitutional frameworks outlined in the 2020 constitutional amendment, focusing first on the regulatory powers and then on the legislative powers of the Prime Minister or Head of Government.

1. Regulatory Powers of the Prime Minister or Head of Government

The regulatory authority of the Prime Minister is expressed through executive decrees, although the Algerian constitution does not explicitly define this concept, leaving it to legal interpretation. Legal scholars define executive decrees as “those decrees or regulations that elaborate on general ordinary or organic legislation, providing detailed provisions or supplementary rules necessary for the implementation of laws enacted by the legislative authority.”⁴

The constitution grants the Prime Minister or Head of Government regulatory powers through Article 141, which states in its second paragraph that the application of laws falls within the regulatory domain of the Prime Minister.

Additionally, the constitution provides the Prime Minister with varied powers, including directing, coordinating, and overseeing the work of the government, distributing powers among ministers, implementing laws and regulations, and signing executive decrees. The Prime Minister also has the right to make appointments in civil service positions that do not fall under the President’s appointment authority⁵.

The recent 2020 amendment clarified the ambiguity surrounding the government’s program or work plan by outlining the President’s authority to appoint government members based on the Prime Minister’s proposals. The President assigns a Prime Minister to form the government and prepare a work plan to implement the presidential program⁶, which is presented to the Council of Ministers if the legislative authority is composed of a presidential majority. Similarly, the Prime Minister ‘prepares the government’s program if the legislative assembly has a parliamentary majority’⁷.

¹ - Ben Baghila Leila, "The Relationship Between the President of the Republic and the Prime Minister in the Algerian System," Doctoral Thesis, Faculty of Law and Political Science, Hadj Lakhdar University of Batna, 2015-2016, p. 92.

² - Article 113 of the 1976 Constitution.

³ - Dr. Boualchir Said, "The Algerian Political System: An Analytical Study of the Nature of the Government System in Light of the 1989 Constitution," Part Two, University Publications, 2013, p. 115.

⁴ - Jaafari Wahida, "The Regulatory Field in the Legal System," Master's Thesis, Faculty of Law, University of Algiers 1, Ben Youssef Ben Khadda, 2013-2014, p. 50.

⁵ - Article 112 of the constitutional amendment of 2020.

⁶ - Article 104 of the same amendment.

⁷ - Article 105 of the same amendment.

Regardless of the winning party's composition, the Prime Minister is tasked with distributing powers among government members with the President's approval and defining the governmental work plan², directing it, and monitoring it in line with citizens' aspirations and protecting their rights and freedoms guaranteed by the constitution.

After the government is formed, the Prime Minister oversees the presentation of the government's work plan, which represents the President's program, with the possibility of adapting it in consultation with the President³, or the government's program if the Head of Government presents it to the National People's Assembly for discussion⁴. The organic law 16-12, amended and supplemented by organic law 23-06 dated May 18, 2023, outlines the procedures for presenting the government's work⁵ plan starting from Article 47 onward.

Additionally, the Prime Minister or Head of Government, according to Article 111 of the 2020 constitutional amendment, must annually present a report on the government's general policy to the National People's Assembly. This report reflects what has been accomplished, what remains to be done, and what is in progress.

The government submits this annual report to the National People's Assembly starting from the date of approval of its work plan⁶. The general policy statement leads to discussions that generate various mechanisms for the legislative authority to oversee the government's actions, including motions, inquiries, confidence votes, and written and oral questions, as outlined in Articles 51, 53, 58, 63, 66, 69, and 77 of organic law 16-12, amended and supplemented by organic law 23-06.

2. Legislative Powers of the Prime Minister or Head of Government

The Algerian legislator has granted legislative powers primarily to the legislative authority, as confirmed in Article 114 of the 2020 constitutional amendment, which states in its second paragraph that each chamber of Parliament holds the authority to draft and vote on laws. However, it has also conferred the right to legislate and issue laws to other constitutional bodies, including the President of the Republic, as previously discussed. Additionally, the constitution grants the Prime Minister or Head of Government, along with their regulatory powers, the ability to propose laws, thereby allowing them to intervene in the legislative process.

According to Article 143 of the Constitution, "the Prime Minister or the Head of Government, as the case may be, and the deputies and members of the Senate have the right to initiate laws". Bills are submitted to the Council of Ministers after receiving the opinion of the Council of State, and then the Prime Minister or Head of Government submits them to the National People's Assembly or the Senate.

Organic Law 16-12 deals with the procedures for the submission and consideration of bills and draft laws, starting with Article 19. Article 20 stipulates that the Prime Minister submits to the Senate draft laws relating to local organisation, regional planning and territorial division, while other draft laws are submitted to the National People's Assembly.

From the above, it is clear that the Algerian legislator has given the Prime Minister or Head of Government the right to propose laws through what is known as a draft law. On the other hand, a proposal made by a member of parliament is called a bill. The legislator also allows the government to set the agenda for parliamentary sessions and gives priority and urgency to bills submitted by the government, as set out in Articles 15 and 16.

In addition, the Algerian legislator has enhanced the status of the Prime Minister or Head of Government by granting him the right to request an extension of the regular parliamentary session by a few days in order to complete the study of an item on the agenda⁷. The Prime Minister may also convene an extraordinary session of Parliament by submitting a request to the President of the Republic⁸.

In addition, the legislator has empowered the Prime Minister or the Head of Government to intervene in parliamentary proceedings in the event of disputes between the two chambers regarding the voting and approval of laws. The Prime Minister has the right to request, within a maximum of 15 days, a meeting of a joint committee composed of members of

¹- Article 110 of the same amendment.

²- Jaafari Wahida, previous reference, p. 86.

³- Article 106 of the constitutional amendment of 2020.

⁴- Article 110 of the constitutional amendment of 2020.

⁵- Organic Law No. 23-06 dated May 18, 2023, amending and complementing Organic Law No. 16-12 dated August 25, 2016, which defines the organization of the People's National Assembly and the Senate, their operations, as well as the functional relationships between them and the government, Official Gazette of the Algerian Republic, No. 35, dated May 21, 2023, p. 07.

⁶- Article 51 of Organic Law 16-12.

⁷- Paragraph 2 of Article 138 of the constitutional amendment of 2020.

⁸- Paragraph 4 of the same article.

both chambers to propose a text addressing the disputed provisions. If the disagreement persists, the Government may ask the National People's Assembly to take a final decision and may also withdraw the text in dispute between the two Houses¹.

Section Two: The Relationship Between the President of the Republic and the Prime Minister or Head of Government

The reinforcement of the President's position within the Algerian political system positively affects the standing of the President while negatively impacting the status of the Prime Minister or Head of Government, depending on the circumstances. This is due to the central role the President plays in relation to constitutional authorities and the executive authority represented by the Prime Minister. Consequently, the President has become the primary focus of the state, leading to a decline in the powers and status of the Prime Minister compared to the President's prominence.

The significant status of the head of state and the supreme authority in the executive hierarchy, as the protector of the constitution, imposes obligations and responsibilities that have far-reaching implications in proportion to the power he constitutionally possesses. This is essential to avoid compromising the public good and to maintain the stability of the state and its constitutional institutions².

To study the relationship between the President and the Prime Minister, we will first address the President's dominance over the executive authority and then examine the responsibilities of both the President and the Prime Minister or Head of Government.

First: The Dominance of the President Over the Executive Authority

The executive authority in the Algerian political system consists of two poles: the President of the Republic and the Prime Minister or Head of Government. While it may seem that both poles have powers commensurate with their responsibilities, the legislator has granted extensive powers to the President, thereby diminishing the standing of the Prime Minister and placing responsibilities on him that do not align with his powers.

One of the most critical areas in managing state affairs is the legislative domain. Although legislative power is primarily the prerogative of Parliament, the legislator has granted the President significant powers in this area.

1. Presidential Powers in the Legislative Domain

The Algerian legislator has conferred numerous powers upon the President, including the exceptional ability to intervene in the legislative process through ordinances, even though legislation is typically within Parliament's jurisdiction. The President can legislate through ordinances under specific conditions, such as emergencies, the vacancy of the National People's Assembly, or during parliamentary recesses. The constitution mandates that the Constitutional Court must be notified of the constitutionality of these ordinances within ten days, as stated in Article 142.

In normal circumstances, the President possesses executive powers, including chairing the Council of Ministers to discuss essential national issues and intervening in financial matters if Parliament does not approve the budget law within 75 days of its submission³.

The President also has the authority to maintain state security and safety. If state security is threatened⁴, the President can take necessary legal measures to preserve public order. Notably, the President holds significant powers during extraordinary circumstances, such as states of emergency and siege, as regulated by Article 97 of the 2020 constitutional amendment.

In exceptional cases, the President can declare a state of emergency if the country is threatened by imminent danger to its constitutional institutions, independence, or territorial integrity for a maximum of 60 days⁵, provided the formal and substantive conditions outlined in the constitution and organic laws are met.

The constitutional founder established objective and formal conditions for exercising these powers to protect the fundamental rights and freedoms of citizens. Additionally, the legislator enables the President to declare a state of war in the event of actual aggression against the country⁶.

¹ - Article 145 of the same constitutional amendment.

² - Belourghi Monira, Master's Thesis, p. 158.

³ - Article 146 of the constitutional amendment of 2020.

⁴ - Dr. Souad Amiri, previous reference, p. 798.

⁵ - Article 98 of the same constitutional amendment of 2020.

⁶ - Article 100 of the constitutional amendment of 2020.

It is worth noting that comparative constitutions also outline the powers of the head of state in exceptional circumstances. For instance, the Moroccan constitution allows for the declaration of a state of siege for 30 days, as per Article 74 of the 2011 constitution¹.

In Algeria, the President has the authority to issue laws. After the legislative process, the law is submitted to the President, who exercises the power to issue the text, as stipulated in Article 148 of the 2020 constitutional amendment, within 30 days of receipt.

Moreover, the Algerian legislator allows the President to object to laws ratified by Parliament by requesting a second reading of the law within 30 days following its approval. The law is then referred back to both chambers of Parliament for ratification by a two-thirds majority of the National People's Assembly and the Senate².

The legislator has granted the President additional significant powers concerning laws enacted by the legislative authority. He is required to notify the Constitutional Court regarding the conformity of organic laws and parliamentary regulations to ensure their constitutionality. Furthermore, the President can notify the Constitutional Court regarding the constitutionality of treaties, laws, and regulations³.

In the realm of foreign policy, the legislator has specifically assigned this authority to the President, as outlined in the third paragraph of Article 84 of the 2020 constitutional amendment, which states that the President embodies the state both domestically and internationally. This is further reinforced by Article 91, paragraph 3, which indicates that the President determines and directs the nation's foreign policy.

However, it is important not to confuse the nation's foreign policy with its representation and execution. The President alone is responsible for the nation's foreign policy, while the implementation and representation of the state abroad fall under the jurisdiction of the Ministry of Foreign Affairs, its ambassadors, consulates, and employees, or through representatives appointed by the President⁴.

Presidential Powers in the Regulatory and Executive Domains

Some view the regulatory authority of the President of the Republic as a significant competitor to law within the Algerian system, serving as a powerful constitutional tool that enables the President to surpass Parliament in establishing general and abstract rules governing the lives of individuals. Others consider it a form of legislation in its own right.

The regulatory authority is defined as "the power granted to the administration, based on constitutional rules, to issue binding administrative decisions characterized by generality, abstraction, and non-personalization." The Algerian legislator has reinforced the President's position by affirming the constitutional founder's powers in the regulatory domain, which encompasses all decisions issued by the President in the form of presidential decrees. Regulation, like legislation, comprises a set of general and abstract legal rules, marking a point of convergence between the two, yet they differ in their sources; legislation originates from the legislative authority, while regulation is the purview of the executive authority.

The President exercises regulatory power in matters not reserved to the law. According to the first paragraph of Article 141, everything that does not fall within the scope defined for the legislative authority by the constitutional and legal texts falls within the competence and powers of the executive authority, represented by the President and the Prime Minister or the Head of Government, as the case may be.

With regard to the executive, Article 91, fourth paragraph, stipulates that the President of the Republic presides over the Council of Ministers, which is composed of various ministers. The purpose of this Council is to widen the circle of consultation and to gather the opinions of each minister regarding their respective ministries, with the aim of discussing all the essential and important issues facing the country. Thus, with this prominent position and by chairing the Council of Ministers, the President dominates all sectors and controls their decisions by virtue of his presidency.

¹ - Rdad Nourredine, previous reference, p. 202.

² - Article 149 of the constitutional amendment of 2020.

³ - Article 190 of the constitutional amendment of 2020

⁴ - Jaafari Wahida, previous reference, p. 19.

The 2020 constitutional amendment also confirmed additional presidential powers in the areas of security and military affairs. Article 92, paragraph two, stipulates the president's power to appoint individuals to civil and military positions within the state. Consequently, the embodiment of national unity and its unity is linked to the armed forces, with the President at their head, as the role of the military is to defend national sovereignty and protect national independence, territorial integrity and security.

2. The Powers of the President of the Republic in the Regulatory and Executive Fields.

Some consider the regulatory power of the President of the Republic to be the biggest competitor to the law in the Algerian system today. It is a powerful constitutional means that enables the President of the Republic to surpass the Parliament in establishing general and abstract rules governing the lives of individuals, and some consider it to be a separate legislation in itself¹.

The regulatory power is "the power granted to the administration by virtue of constitutional rules to issue binding administrative decisions characterized by generality, abstraction, and impersonality."²

The Algerian legislator has strengthened the position of the President of the Republic by affirming the constitutional founder's powers for the President of the Republic in the field of regulatory authority, which refers to all decisions issued by the President of the Republic in the form of presidential decrees. Regulation, like legislation, includes a set of general and abstract legal rules, which is the point of agreement between them. They differ in the issuing authority; legislation is issued by the legislative authority, while regulation is the prerogative of the executive authority³.

The regulatory power is exercised in matters not specifically assigned to the law by the first paragraph of Article 141. Everything that does not fall within the scope and field defined for the legislative power by the constitutional and legal texts falls within the scope and powers of the executive power, represented by the President of the Republic and the Prime Minister or the Head of Government, as the case may be.

With regard to the executive, Article 91(4) stipulates that the President of the Republic presides over the Council of Ministers, which is made up of a group of ministers. The aim is to widen the circle of consultation and to take into account the opinions of each minister according to his ministry, and to discuss all the fundamental and important issues and areas in the country. In this way, the President of the Republic, with this prominent position and based on the presidency of the Council of Ministers, dominates all sectors and controls their decisions by virtue of holding the office of President.

The constitutional amendment of 2020 confirmed other powers of the President of the Republic, such as the authority in the security and military fields, as stipulated in article 92, paragraph 2, through the appointment to civil and military positions in the State. Thus, the embodiment of the unity of the nation and its entity is linked to the armed forces and the President of the Republic, who remains at their head, since the role of the armed forces is to defend national sovereignty, national independence, territorial integrity and the security of its territory.

Second: The Responsibility of the President of the Republic and the Prime Minister or Head of Government

"The principle that where there is power, there is responsibility, or the principle that authority and responsibility are intertwined, dictates that whoever has the power and makes the decisions bears the responsibility. However, the position of the President of the Republic in the Algerian political system does not make him responsible, because he is a symbol of sovereignty, not of government, and therefore the responsibility is transferred to another party."⁴

In this way, it is possible to examine the constitutional articles on the location of the responsibility of the President of the Republic in the light of the constitutional amendment of 2020, and then to address the responsibility of the Prime Minister or the Head of Government, as the case may be.

be".

1. Responsibility of the President of the Republic Under the 2020 Constitutional Amendment

¹ Ben Dahou Nourredine, "The Regulatory Authority as a Mechanism Supporting the Position of the President of the Republic in Algeria," Doctoral Thesis, Faculty of Law and Political Science, Department of Public Law, Aboubakr Belkaid University of Tlemcen, 2015-2016, p. 18.

² Same reference, p. 21.

³ Dr. Souad Amiri, "The Legal Status of the President of the Republic in Light of the Constitutional Amendment of 2020," Journal of Legal and Social Sciences, Zian Achour University, Djelfa, Algeria, Volume 6, Issue 4, December 2021, p. 793.

⁴ Dr. Taïbi Issa, "The Status of the Prime Minister in Algeria Through His Responsibilities in Light of the Constitutional Amendment of 2016," Journal of Legal Studies, Sovereignty and Globalization Laboratory, Faculty of Law and Political Science, University of Medea, Volume 5, Issue 1, January 2019, p. 212.

The political responsibility of the President of the Republic only emerged in the 1963 Constitution, as stated in Article 55, which affirmed that the National Council could present a motion of censure signed by one-third of the deputies. However, this responsibility was retracted in the 1976 Constitution¹.

Throughout its various constitutions, the Algerian legislator has granted the President a distinguished position and status, culminating in the 2020 constitutional amendment, which positions the President as a leader both internally and externally, serving as the Minister of National Defense and the head of the Supreme Judicial Council. The President also has the authority to legislate by ordinance, possesses regulatory powers, and has the capacity to dissolve the National People's Assembly².

The principle stating that where there is authority, there is responsibility—or the idea that authority and responsibility are inseparable—implies that anyone with powers and decision-making capacity must bear responsibility. However, the position of the President of the Republic within the Algerian political system renders him not directly accountable, as he symbolizes sovereignty rather than governance, thereby shifting responsibility to another party³.

In this context, we can explore the constitutional provisions concerning the responsibility of the President of the Republic under the 2020 constitutional amendment, and then examine the responsibilities of the Prime Minister or Head of Government.

Despite these extensive powers and his high position in the hierarchy of authority, the legislator has not imposed a corresponding level of accountability on the president. He is not subject to political accountability due to the prominent position of the presidency in the political and constitutional life of the nation. Thus, he is not accountable for actions and statements made in the exercise of his office, especially since this authority and status derive from his direct election by the people, making him the central figure in the political system. Consequently, he is not held responsible for any actions that may harm others in the exercise of his role.

However, the Algerian legislature has provided for a form of accountability for the president. This accountability is criminal in nature, as stated in Article 183 of the amended 2020 Constitution: "The Supreme Court of State is competent to examine acts that could be classified as high treason committed by the President of the Republic during the exercise of his mandate", maintaining the approach of the 1996 Constitution.⁴

An analysis of the provisions of the Algerian Constitution shows that the President of the Republic is implicitly accountable to the nation or the people. His accountability to the public is manifested primarily at the end of his term of office, when the same person can run for a second term. Failure to renew confidence in him is interpreted as a rejection of his policies. In addition, the president's responsibility to the people can also be expressed through referendums, in which he can consult the people on matters of national importance. A negative vote is seen as a rejection of the president's policies, indicating public dissatisfaction with his administration.

2. Responsibility of the Prime Minister or Head of Government

Upon examining the constitutional and legal texts that grant powers to the Prime Minister or Head of Government, it becomes evident that he is subject to dual accountability: first, to the President of the Republic, and second, to the legislative authority, represented by the power to withdraw confidence after a formal request and the oversight responsibility before Parliament. Additionally, there is the possibility of criminal responsibility.

Accountability to the President of the Republic

The prime minister's responsibility to the president is primarily reflected in the president's power to appoint and dismiss the prime minister. This is articulated in the various Algerian constitutions up to the constitutional reform of 2020, specifically in Article 91, paragraph five. The president's power to choose the prime minister is not limited by any conditions or restrictions regarding the choice of the person to whom he confers this trust. The President also has the power to dismiss the Prime Minister for various reasons, such as failure to effectively manage the affairs of the Ministry or

¹ Bougrane Ibrahim, Tahari Hanan, "The Presidential Function in Algeria: A Comparative Study Between Algerian Constitutions," *Journal of Legal and Social Sciences*, Zian Achour University, Djelfa, Algeria, Volume 8, Issue 1, March 2023, p. 1167.

² Article 151 of the constitutional amendment of 2020.

³ Sebsi Mohamed, Zouagri Tahar, "The Position of the President of the Republic in Algeria According to the Constitutional Amendment of 2020," *Journal of Law and Political Science*, University of Khencela, Volume 8, Issue 2, 2021, p. 37.

⁴ Sebsi Mohamed, Zouagri Tahar, previous reference, p. 38.

to successfully implement the programme of the President or the parliamentary majority, or due to changes in the parliamentary majority following parliamentary elections¹.

Accountability to Parliament

The Prime Minister or Head of Government is also accountable to Parliament through political or ministerial responsibility. This grants Parliament the right to oversee the government's actions, particularly during the submission of the government's work plan or the general policy statement. This constitutional right allows the legislative authority to withdraw confidence from a minister or the entire government if the actions of the minister or the government warrant accountability².

The political responsibility of the government manifests when the Prime Minister presents the government's work plan to the National People's Assembly. At this point, the legislative authority begins its effective oversight of the government's actions, as outlined in Articles 106 and 107 of the 2020 constitutional amendment. If the work plan is not approved, the Prime Minister must resign to the President.

During the presentation of the general policy statement to the National People's Assembly, the issue of accountability arises, allowing for the possibility of a motion of censure directed at the government. The Prime Minister may also request a confidence vote, with the National People's Assembly having the authority to withdraw this confidence, leading the Prime Minister to submit his government's resignation to the President³.

Criminal Responsibility

With regard to criminal liability, the founder of the Constitution outlined the criminal liability of the Prime Minister or the Head of Government in Article 183, which states that "The High State Tribunal shall have jurisdiction to try acts of high treason committed by the President of the Republic in the exercise of his mandate, as well as crimes committed by the Prime Minister or the Head of Government in the exercise of their duties, as defined by an organic law establishing the composition, organisation and procedures of the High State Tribunal."

However, the Algerian legislature has not provided a detailed definition of "high treason" in the 2020 constitutional amendment, nor in previous constitutions and organic laws. There is also no explicit mention of which authority can initiate proceedings for acts that can be classified as treason committed by the president, prime minister or head of government, leaving a gap in the legal framework regarding the accountability mechanisms applicable to these high-ranking officials.

Conclusion

In conclusion, the executive authority in Algeria consists of two main poles: the President of the Republic and the Prime Minister or Head of Government. However, the Algerian political system has granted the President a superior position in relation to the state's authorities and within the executive authority itself. The President appoints and dismisses the Prime Minister, possessing the discretionary power to do so, while holding actual authority. Moreover, the President is not held accountable, placing all responsibilities on the government. The Prime Minister or Head of Government bears full responsibility for all actions resulting from the executive authority, despite lacking the comprehensive powers commensurate with that level of responsibility.

Thus, the title of Prime Minister, as defined in the 2020 constitutional amendment, essentially reflects a role as an assistant to the President, with responsibilities limited to coordinating government activities and implementing the President's program. Conversely, the title of Head of Government suggests partial independence regarding the parliamentary majority's program, deriving legitimacy constitutionally and politically from that majority, even though their appointment and dismissal are at the President's discretion.

Despite attempts by the constitutional founder to enhance the status of the Prime Minister or Head of Government and expand their constitutional powers in line with a parliamentary system, the extensive powers granted to the President leave the Prime Minister without clearly defined authority.

Notably, the Algerian legislator has regressed since the 2008 amendment, replacing the title of Head of Government with that of Prime Minister to facilitate the implementation of the President's program rather than allowing for an independent governmental program. This has led to an overly presidential system that strengthens the President's central role, as noted

¹ - Rehani Amina, "The Prime Minister in the Algerian Constitutional Political System: A Study in Light of the Constitutional Amendment of 2016," Journal of Thought, Faculty of Law and Political Science, Mohamed Khider University of Biskra, Issue 18, 2019, p. 292.

² - Same reference.

³ - Article 11 of the constitutional amendment of 2020.

by the expert committee reviewing the constitution in 2020. Consequently, the legislator introduced changes to include both the title of Minister and Head of Government, depending on the outcomes of legislative elections.

Key outcomes from this analysis include:

1. The Algerian legislator's determination to avoid concentrating power in a single individual, namely the President, while still leaning towards a strong individualistic governance style.
2. The constitutional distinction between the titles of Prime Minister and Head of Government indicates a desire for the latter to be appointed from parties winning legislative elections, particularly when a party holds a parliamentary majority.
3. The expansion of powers for the second figure in the executive authority—namely the Prime Minister or Head of Government—aims to alleviate the burdens carried by the President in managing state affairs.
4. Despite efforts to expand the powers of the Prime Minister or Head of Government and to avoid personalizing authority, the powers granted to the President make him the dominant figure across legislative, executive, and judicial branches, due to his extensive authority in appointments, legislation, and regulation.
5. The 2020 constitutional amendment reveals that the legislator did not introduce any changes to the relationship within the executive branch, as the Prime Minister or Head of Government remains subordinate to the President, reflecting the broad powers of the President in the Algerian political system.

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