



# Political Parties in Algeria: Institutional Dependence Between Formation and Restriction

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**Abstract**

The Organic Law No. 12-04 of 12 January 2012 concerning political parties did not bring about significant changes compared to the repealed Organic Law. It reinforces the superiority of the administration and the Minister of the Interior over political parties, from the initial establishment of the party to its internal organisation. According to the law, creating a political party involves three steps: first, submitting a request including a declaration to establish the party; second, issuing an administrative decision to allow the conference to be held; and third, approving the party. The Organic Law on Political Parties came in the wake of political reforms related to political practice and the democratic path through political pluralism. The law aims to review freedom of association in a way that enhances political activity and consolidates the pluralistic system.

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**Introduction:**

Although the 2020 constitutional amendment explicitly affirmed citizens' freedom to establish and join political parties<sup>1</sup>, this does not mean that such formations are free of conditions or restrictions<sup>2</sup>. It is understood that any law regulating the exercise of a constitutional freedom should not infringe upon or deplete the essence of that freedom under the guise of regulation. Freedom is the norm and restriction is merely an exception that should not be expanded at the expense of the norm.

Similar to its predecessor 09/97, the new Algerian Political Parties Law No. 04/12 attempts to regulate political parties from establishment to dissolution through a set of legal provisions. The question remains: do the provisions regarding the conditions and procedures for establishing political parties remain within their regulatory framework, or do they exceed it to the point of restriction?

In the following two sections, we will attempt to answer this question by examining the contents of Chapter Two (Articles 16 to 37 of Organic Law 04/12 concerning political parties) from positive and negative perspectives. We will also present solutions that we believe would enhance the freedom of party pluralism in Algeria. This will be addressed through the following two sections:

Section One: Conditions for establishing political parties.

Section Two: Procedures for Establishing Political Parties.

## Section One: Conditions for Establishing Political Parties

The legislator has mandated certain conditions for establishing political parties, which are divided into general conditions (Subsection One) and specific conditions (Subsection Two).

### Subsection One: General Conditions for Establishing Political Parties:

The general conditions required by the legislator for the establishment and continuation of political parties can be divided into conditions related to the party's name, principles and objectives (first) and conditions related to its activities (second).

#### First: Conditions related to the naming of the party, its principles and objectives.

These conditions are outlined in Articles 6, 7 and 8 of Law 4/12. Article 6 of this law states that 'no political party may choose for itself a name, symbol or other distinctive mark belonging to a party or organisation that existed before it or was previously owned by it'.

The legislator's intention behind this prohibition is to compel political parties to avoid actions that could compromise national independence, such as forming alliances with foreign entities seeking to undermine security, stability and consequently, national independence. The second and third prohibitions in this clause contradict each other: the sovereignty of the people and adherence to the republican nature of the state.

While this restriction contradicts democratic principles, French jurisprudence has concluded that the Algerian legislator's intention behind prohibiting the inclusion of principles and objectives that could lead to a change in the regime of the French Republic without force was clear.

The legislator concludes the first paragraph of Article 8 with a prohibition against the party's objectives and principles conflicting with the security and integrity of the national territory<sup>3</sup>. This restriction appears to be a repetition of the limitation found in the fifth clause of this paragraph. It does not align with the principle that 'the best texts are the shortest'. Therefore, we recommend that the legislator remove this clause due to its redundancy and lack of any significant new provision.

#### Second: conditions related to the activities and relations of political parties.

These are outlined in Articles 9, 46, 48, 50 and 51 of Law 4/12.

Article 9 states that 'a political party may not resort to violence or coercion, regardless of their nature or form, nor may it draw inspiration from the programme of a politically dissolved party'.

This condition is necessary and logical, aligning with the democratic principles underpinning party pluralism, which fundamentally relies on peaceful means of political activity. This condition is directly related to the restrictions mentioned in paragraph 3 of Article 6 of the repealed Law 09/97, which prohibited the use of party resources to establish a military or paramilitary organisation. The use of violence is only possible if the party possesses the means to do so. While the legislator's inclusion of this condition is significant, it merely reiterates what was stated in the final paragraph of Article 57 of the 2020 constitutional amendment and other Penal Code provisions<sup>4</sup>.

The condition in the second paragraph of the same article, which prohibits drawing inspiration from the programme of a politically dissolved party, suggests that the legislator was concerned about a resurgence of the Islamic Salvation Front's ideas. However, this overlooks an important fact: prohibiting inspiration from such a programme does not prevent the formation of another party based on the same programme, particularly for parties with an Islamic agenda. Theoretical principles alone are insufficient for establishing a party; practical means and methods for implementing the programme are also necessary.

Article 46 of the same law obliges political parties, in the context of their activities, to respect the following principles and objectives:<sup>5</sup>

- The characteristics of the state and its symbols.
- The constants of the nation.
- Adoption of political pluralism.
- Practice the democratic approach.
- Rejection of violence and coercion in all their forms.
- Respect for individual and collective freedoms and human rights.
- Public order.

As both the constitutional text (Article 57) and the legal text (Article 8 of Law 1/09) prohibit political parties from violating these principles and objectives, it makes little sense to reiterate this condition in multiple articles of this law. The focus should be on applying the texts rather than repeating them.

Furthermore, political parties are prohibited from ‘using foreign languages in all their activities’<sup>6</sup>. Through this condition, the legislator aims to support and promote the Arabic and Amazigh languages as the national and official languages<sup>7</sup>, and political parties must adopt them in all their activities.

Political parties are also prohibited from having any organic, subordinate or supervisory links with unions, associations or any other organisation that is not political. This restriction would make sense in the context of a single party to which all civil society bodies and institutions belonged, as it would ensure complete loyalty to that party alone. However, in a pluralistic party system, such a condition is meaningless and essentially contradicts one of the primary means of forming political parties, namely unions and associations. By contrast, the legislator has permitted political parties to establish relationships with foreign political parties, requiring only that these relationships do not conflict with the constitution and applicable laws, and exempting them from any judicial or administrative oversight<sup>8</sup>. Does the legislator trust political parties this much, disregarding the possibility that they might compromise national interests, intentionally or not, when there is an imbalance of power between national and foreign parties, some of which are merely conglomerates of major capitalist interests? Yet there is a lack of trust in unions, associations and national organisations.

It is worth noting that, in reality, no political party is entirely disconnected from unions or associations. Support committees for party programmes and candidates during elections are clear evidence of this.

## **Subsection Two: Specific Conditions for Establishing Political Parties**

In Law 04/12, the legislator has defined the conditions required for establishing a political party (Section 1) and the conditions for joining one (Section 2).

### **First: Conditions required for founding members**

These are outlined in Articles 5, 10 and 17 of Organic Law No. 4/12. They must be met by the founding members; otherwise, the establishment request will be rejected. These conditions include:<sup>9</sup>

- Individuals who have exploited religion, leading to a national tragedy, are prohibited from founding or participating in the establishment of a political party or its governing bodies.
- Anyone who has participated in terrorist activities and refuses to accept responsibility for taking part in formulating, adopting and implementing policies that advocate violence and sabotage against the nation and state institutions is also barred from this right.

This is reaffirmed in the implementation of the Charter for Peace and National Reconciliation, which states: ‘Anyone responsible for the malicious use of religion that led to the national tragedy, or who participated in terrorist acts and used religion for criminal purposes, or who formulated and applied policies that glorified violence against the nation and state institutions, is prohibited from engaging in political activity in any form.’<sup>10</sup>

From previous articles, it is clear that the legislator has prohibited individuals who exploited religion, leading to the national tragedy, as well as those who participated in terrorist acts and refuse to acknowledge their responsibility for engaging in policies that advocate violence and sabotage against the nation and state institutions, from establishing or holding leadership positions in a political party. However, the text does not prevent them from joining political parties, nor does it clarify whether individuals who acknowledge their responsibility for the violent events are subject to this prohibition. Therefore, the aforementioned articles must be revised to ensure individuals' freedom to establish and manage political parties, while preventing those convicted of terrorist crimes from engaging in political activities.

Furthermore, the founding members of a political party must fulfil the following criteria:<sup>11</sup>

1. The founding member must be of Algerian nationality. It is noteworthy that the legislator has not distinguished between individuals of Algerian origin and those who have acquired nationality, nor has it stipulated a waiting period after which naturalised citizens can become founding members of a political party<sup>12</sup>. However, it is unclear why the legislator has permitted dual nationals to establish parties, contrary to the repealed Law 97/09. For this reason, it would have been more prudent for the legislator to maintain this restriction. It is inconceivable for a person with dual nationality to have the same loyalty to both countries of their citizenship.

B. The founding member must be at least 25 years old. Reaching this age is believed to enable the founding member to understand the responsibilities that come with establishing a political party towards the nation. It also provides a degree of maturity and intellectual awareness to correctly assess matters, particularly with regard to the party's objectives, programme and how it conducts its activities.

C. The founding member must enjoy full civil and political rights, and must not have been imprisoned for a felony or misdemeanour without having their status restored. This condition is logical and acceptable as the purpose is clear: political parties represent and express public opinion. It would be inappropriate for individuals with criminal records to hold leadership positions within them, as such individuals could potentially rise to power. Therefore, the legislator requires background checks on party founders and exempts those who have had their status restored from this condition. However, unlike under the repealed Law 09/97, the Algerian legislator did not distinguish between crimes that compromise honour and good morals and those related to exercising various other individual or collective freedoms guaranteed by the constitution.

It would therefore have been preferable for the legislator to restrict this prohibition to crimes that compromise honour and reputation only. It is unjust to deny someone who has committed an injury or unintentional homicide in a traffic accident the right to establish a political party<sup>13</sup>.

D. Founding members must not have engaged in conduct contrary to the principles of the 1 November 1954 Revolution. This applies to individuals born before July 1942. It is noteworthy that the legislator did not specify how this absence of involvement is to be proven.

E. The founding member must not be subject to the prohibitions set out in Article 5 of Law 4/12. We have previously analysed the content of this article.

F. Furthermore, there should be a percentage of women among the founding members. This clause demonstrates the legislator's commitment to empowering women in political life by encouraging their participation in the formation of political parties, in line with the principles outlined in the 2008<sup>14</sup> and 2020 constitutional amendments.

While some consider the inclusion of a percentage of women among the founding members to be a positive addition that aligns with other legislative systems, we have some concerns about this article<sup>15</sup>.

This clause represents a blatant violation of constitutional provisions, particularly Article 37 of the 2020 constitutional amendment, which states that all citizens are equal before the law and that discrimination based on birth, ethnicity, gender, opinion or any other personal or social condition is not permissible.

Article 35 also guarantees equality of rights and duties for all citizens by removing obstacles that hinder the development of individual personalities and prevent effective participation in political, economic, social and cultural life.

- This clause contradicts the principles outlined in Article 38 of this law, which stipulates that party management and leadership must be conducted by centrally and locally elected bodies, based on democratic principles of free member choice, with transparent renewal under the same conditions and forms.

### **Second: Conditions required for members to join:**

The Algerian legislator has specified a set of conditions that individuals must meet to join political parties after they have been established. These conditions include:<sup>16</sup>

- Nationality: every Algerian citizen has the right to join one political party. It is noteworthy that the legislator did not distinguish between individuals of Algerian origin and those who have acquired nationality.

- Age: Anyone who has reached the legal age of majority (19 years)<sup>17</sup> has the right to join a political party.

- Non-affiliation with neutral institutions: Article 2/10 of Organic Law 04/12 outlines individuals who are prohibited from joining political parties while performing their duties. This includes judges, members of the People's National Army, security personnel, members of the Constitutional Council and any state officials whose basic law explicitly states that affiliation with or any relationship to a political party is incompatible with their term of office. The reason for prohibiting these categories from joining political parties is the sensitivity of their roles, which require neutrality and distance from all parties.

We believe that the legislator was wise to exclude these categories from political activity, as this exclusion is temporary and related solely to their positions. Once their employment relationship ends, they have the right to join any political party they choose.

While non-affiliation with neutral institutions is a prerequisite for joining or establishing political parties, members of these institutions can still express their opinions by exercising their right to vote in various elections.

### **Section Two: Procedures for Establishing Political Parties**

Undoubtedly, the procedures for establishing political parties in Algeria reveal the legislator's stance on the systems adopted in comparative legislation<sup>18</sup>. The process of establishing a political party in Algeria begins with the foundational declaration phase (Subsection One), continues with the holding of the founding conference (Subsection Two), and concludes with the approval phase (Subsection Three).

#### **Subsection One: Foundational Declaration Phase**

This phase begins with the submission of the foundational declaration file by the founding members and ends with either its acceptance or rejection, or the failure of the relevant authority to respond.

#### **First: Preparation and submission of the foundational declaration file.**

The Algerian legislator requires political party founders to submit the foundational declaration file to the Minister of the Interior. The relevant official is obliged to issue a receipt for the filing of the party's foundational declaration after verifying the documents in person.

Notably, despite the importance of preparing the foundational declaration file before submission, the legislator has overlooked its organisation in Law 11/89 concerning political associations (repealed) and Law 09/97 concerning political parties (also repealed), as well as in the currently effective Organic Law 04/12 concerning political parties.

This omission raises questions about the legality of the actions taken to prepare the foundational declaration and convene the founding general assembly. What responsibilities did the founders have during this phase? Undoubtedly, the preparation process is a political act and conflicts with Article 32 of Law 04/12, which states that a political party acquires legal personality and capacity the day after its approval is published in the Official Gazette of the People's Democratic Republic of Algeria.

This restricts the party's activity, as it must first obtain legal personality before engaging in any political activity. All preparatory actions for the foundational declaration file are political acts and are punishable by a fine ranging from 300,000 to 600,000 Algerian dinars. Therefore, we urge the legislator to regulate this phase in order to provide optimal legal protection for the founding members during the preparation of the foundational declaration file.

The file for establishing the political party includes the foundational declaration:<sup>19</sup>

- A request for the establishment of the party, signed by at least three founding members and mentioning the name and address of the party's headquarters, as well as the addresses of any local offices.
- A written commitment, signed by at least two founding members from at least four provinces of the country, to respect the provisions of the constitution and applicable laws, and to hold the party's founding conference within one year of the publication date of the decision authorising the conference in the press.
- A draft of the party's basic law in three copies.
- A preliminary draft of the political programme.
- Extracts from the birth certificates of the founding members.
- Extracts from the judicial record (number 3) of the founding members.
- Proof of Algerian nationality for the founding members.
- Proof of residence for the founding members.

The legislator has modified these conditions compared to Law 09/97 concerning political parties (which has been repealed) by requiring proof of Algerian nationality for founding members to be included with the foundational declaration<sup>20</sup>. The requirement for a certificate proving that individuals born before July 1942 were not involved in acts against the liberation revolution has been removed. Notably, the foundational declaration file is accessible to all and does not impose insurmountable conditions on the founding members, offering clear and evident benefits.

While the requirement for twenty-four members to be residents of at least twelve provinces of the country is a relief compared to Law 97/09 (repealed), which required twenty-five members to be residents of at least sixteen provinces, it is a tightening compared to Law 89/11 (also repealed) concerning political associations, which required only fifteen founding and managing members, with no geographic distribution specified<sup>21</sup>.

Furthermore, the stipulation that founders must submit the request for the foundational declaration to the relevant official in person and receive a receipt immediately upon verification of the documents contrasts with Law 09/97 (also repealed), which did not specify the timeframe within which the Ministry of the Interior should issue the receipt nor mandate its issuance<sup>22</sup>.

## **Second: Authority of the Relevant Body to Study the Foundational Declaration**

The Minister of the Interior has a maximum period of sixty days<sup>23</sup> from the date of receipt of the Foundational Declaration to verify its compliance with the Constitution and the provisions of Organic Law No. 04/12 concerning political parties. If the declaration meets all the necessary conditions, the founding members are permitted to hold their founding conference<sup>24</sup>. Conversely, if the conditions are not met, the Minister of the Interior will reject the foundational declaration. If the Minister of the Interior does not respond within sixty (60) days of receiving the foundational declaration, this is considered authorisation for the founding members to hold the party's founding conference.

During this period, the Minister of the Interior may request missing documents and replace or withdraw any member who does not meet the conditions stipulated in Article 17 of this Organic Law<sup>25</sup>.



It is clear from this that the Minister of the Interior is granted extensive powers during the foundational declaration phase<sup>26</sup>. Founding members may only appeal against a decision to reject the foundational declaration<sup>27</sup> to the Council of State within a maximum period of thirty (30) days from the date of notification. The Council of State is the primary and final authority responsible for adjudicating annulment and interpretation claims, and for assessing the legality of decisions issued by central administrative authorities. The Council of State has two months from the date of filing the initial petition to rule on the annulment claim regarding the rejection decision<sup>28</sup>.

Furthermore, acceptance of the foundational declaration file by the minister qualifies the founding members to hold the party's founding conference, following publication of the acceptance decision in at least two national media outlets. This publication must include the party's name, headquarters, and the names, positions, and signatures of the founding members who signed the required commitment in the file<sup>29</sup>.

## **Subsection Two: The Founding Conference Phase**

Articles 24, 25 and 26 of the Political Parties Law set out the conditions for holding the party's founding conference. These include the timing of the conference (Article 24) and the conditions for convening it (Articles 25 and 26).

### **First: Timing of the Founding Conference**

The party's founding conference shall be held after the preparation phase has been completed by the founding members<sup>30</sup>, within one year of the date on which the decision authorising the foundational declaration was published in at least two national media outlets. This period may be extended in cases of force majeure, provided that the founding members submit a request for an extension of up to six months to the Minister of the Interior.

The minister's decision to refuse the extension may be challenged before the Council of State, which adjudicates urgent cases, within fifteen (15) days of the refusal<sup>31</sup>. If the specified period for holding the founding conference expires without it taking place for any reason, the decision to make the foundational declaration becomes null and void, and any party activity conducted by the founding members will be subject to the penalties stipulated in Article 78 of Organic Law 04/12.

### **Secondly, the conditions for holding the founding conference are as follows:**

The founding conference is only valid if it is attended by delegates from more than one-third (1/3) of the provinces — specifically, from more than sixteen (16) provinces distributed across the national territory — and if there are between four hundred (400) and five hundred (500) delegates, who are elected by at least one thousand six hundred (1,600) members. This ensures that there are no fewer than sixteen (16) delegates and no fewer than one hundred (100) members from each province. Additionally<sup>32</sup>, there must be a percentage of women among the delegates.

It is noteworthy that the aforementioned article explicitly recognises the membership status of individuals affiliated with the political party in the process of being established, stating that four hundred (400) to five hundred (500) delegates must be elected from amongst one thousand six hundred (1,600) members. However, how is this feasible when membership is granted by the political party only after the establishment procedures have been completed and legal capacity has been acquired? On what basis does the legislator distinguish between those described as 'founders' and those referred to as 'members' (affiliates), when everyone is affiliated with the party before its official establishment?

Furthermore, how can 1,600 supporters elect 400–500 delegates when the entity they belong to has not yet come into existence and its fate still lies with the Minister of the Interior? Shouldn't the party first be established with a limited number of founding members who can discuss and agree on the party's principles and objectives, before moving on to the process of attracting additional members?

The founding conference of the party must be held within the national territory, regardless of the circumstances<sup>33</sup>. This conference must be documented in an official record prepared by a judicial officer. This record must include the titles and names of the present and absent founding members, the number of delegates present, details of the conference venue, and the ratification of the party's basic law, internal regulations and work programme. It must also include details of the leadership and administrative bodies, and all proceedings or formalities resulting from the conference's work<sup>34</sup>.

The conclusion of the conference is marked by the ratification of the party's basic law, which must include the following:<sup>35</sup>

- the composition of the deliberative body;
- the method of electing the deliberative body;
- the powers of the deliberative body.

The composition of the executive body, including the number of female members, the method of election, renewal and term duration, and its powers<sup>36</sup>.

The foundations and objectives of the political party must be in compliance with the constitution and the provisions of the organic law concerning political parties and applicable legislation<sup>37</sup>.

- Procedures for the voluntary dissolution of the political party.

Financial provisions.

- A stipulation for including a percentage of female members within the deliberative and executive bodies of the party.

Additionally, the party's internal organisation must define the rights and obligations of its members, as well as the methods, rules and procedures relating to regular and extraordinary sessions and periodic meetings of its bodies.

The member authorised to submit the party's basic law to the Ministry of the Interior must also be specified. Any changes to the organisation and formation of the leadership bodies, as set out in the party's basic law and internal regulations, must be communicated to the Minister of the Interior within thirty days. This enables the Minister to make a decision on the changes within thirty (30) days of receiving notification<sup>38</sup>. If the Minister does not respond to the request for changes within the specified period, this silence is considered acceptance of the changes made. However, changes are only considered valid once published by the recognised party in at least two national media outlets.

What happens if the Minister of the Interior rejects these changes? This scenario is not addressed by the legislator. As the general principle is that any administrative decision can be appealed unless it is an act of sovereignty or is explicitly protected from judicial challenge by legal provisions<sup>39</sup>, reference should be made to the general rules stipulated in Article 901 of the Civil and Administrative Procedures Code.

### **Subsection Three: The Political Party Approval Phase**

This phase represents the final step in the procedures for establishing political parties. It begins with the submission of the approval request and ends with acceptance, rejection, or silence from the relevant authority regarding the request.

#### **First: Approval Request**

Following the conclusion of the founding conference, the authorised member must submit the approval request file to the Minister of the Interior within thirty days of that date and will receive a receipt upon submission<sup>40</sup>. The legislator has rightly extended the deadline for submitting the approval request file to one month instead of the fifteen days stipulated in Law 09/97 (repealed)<sup>41</sup>. However, there are no consequences for failing to submit the approval request within the specified thirty days.

The procedural constraints continue, as the founding members are required to attach the following documents to the approval request file:<sup>42</sup>

- A written request for approval.
- A copy of the minutes from the founding conference.
- The party's basic law in three copies.



- The party's political programme in three copies.
- A list of the legally elected members of the leadership bodies, accompanied by the documents specified in Article 17 of the Organic Law on Political Parties.
- The party's internal regulations.

Referring back to Article 17 of Organic Law 04/12, it outlines the conditions that founding members must meet, but does not specify any documents. Assuming that the intended documents are those proving that the founding members meet the aforementioned conditions, do these documents not represent an additional hurdle for establishing political parties? This is especially the case since these documents were previously submitted during the foundational declaration phase.

### **Secondly, the relevant body has the authority to receive the approval request.**

The Minister of the Interior is responsible for ensuring that the approval file complies with the law within sixty (60) days of its submission. During this period, after conducting the necessary review, the Minister may request any missing documents and/or the replacement of any leadership body member who does not meet the legal requirements<sup>43</sup>. The review process concludes with either the approval of the party's registration, refusal or no response to the approval request.

If the Minister of the Interior finds that the approval file complies with the law, he will approve the political party's registration by issuing a decision to be communicated to the party's leadership bodies and published in the Official Gazette of the People's Democratic Republic of Algeria<sup>44</sup>. From the date of publication, the party acquires legal personality and capacity<sup>45</sup>. However, it is criticised for not specifying a timeframe within which the minister must publish the decision to register the political party.

Furthermore, if the approval request is refused, the legislator requires the Minister of the Interior to provide a legal justification for the rejection and communicate this to the applicants<sup>46</sup>. The law grants founding members and managers the right to appeal the decision to reject their application to the Council of State within two months of being notified<sup>47</sup>. The Council of State then has two months from the date the initial petition is filed to rule on the appeal<sup>48</sup>. If the appeal is accepted, this is considered equivalent to approval, leading to the Minister of the Interior immediately issuing the party's registration decision.

Additionally, if the Minister of the Interior does not respond to the approval request within the specified sixty (60) days, this silence is considered approval<sup>49</sup>. This must be communicated to the party leadership and published in the Official Gazette<sup>50</sup>. Unfortunately, Article 34 does not clarify the legal implications of failing to notify the party leadership of approval after sixty days have passed without a response from the Minister of the Interior<sup>51</sup>. In this situation, parties may face the same fate as the 'Movement for Loyalty and Justice' and the 'Democratic Front', which were not approved despite the sixty days available to the Minister of the Interior to decide on the approval request<sup>52</sup>.

From the above, it is clear that a political party has legal personality and the capacity to engage in political activity from the date of publication of its approval in the Official Gazette of the People's Democratic Republic of Algeria, if approved<sup>53</sup>. Alternatively, this capacity is granted from the date of notification and publication in the Official Gazette if the Council of State rules in favour of the appeal against the rejection decision. Finally, this capacity is granted after the sixty (60) days specified by law for studying the approval request have passed without a response from the Minister of the Interior<sup>54</sup>.

### **Conclusion:**

In summary, we can say that the Algerian legislator has made some progress regarding the conditions for establishing political parties. However, there are certain negative provisions that may hinder an individual's right to establish or join a political party. The strictness of the procedures for establishing political parties represents a regression in freedom of association compared to the situation under the repealed Law on Political Associations. Therefore, we urge the legislator to revise Law 04/12's provisions concerning the conditions and procedures for establishing political parties, as clarified in this article.

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### References

1. Boudiaf, A. (2012). *The law of political parties* (1st ed.). Constantine, Algeria: Bridges for Publishing and Distribution.
2. Al-Khatib, N. (n.d.). *Political parties and their role in contemporary governance systems*. Dar Al-Thaqafa for Publishing and Distribution.
3. Al-Masri, S. M. (2007). *The party system: A comparative study*. Alexandria, Egypt: Modern University Office.
4. Hamli, M. (2011–2012). *Mechanisms for establishing the rule of law in Algeria* (Doctoral dissertation). Faculty of Law and Political Science, University of Tlemcen.
5. Fahmy, M. A. Z. (1996). *The Egyptian constitutional system and the constitutional review of laws*. Alexandria, Egypt: Dar Al-Matbu'at Al-Jami'iya.

### Footnotes:

- <sup>1</sup> The text of Article 57 of the constitutional amendment of 2020, which was numbered 52 in Law 16/01 concerning the constitutional amendment of 2016.
- <sup>2</sup> The constitutional text (Article 57) concerning the freedom to establish political parties in Algeria outlines the principles and general guidelines that may not be exceeded, and the last clause assigns the regulation of this matter to the law. It is worth noting that the organization of political parties has become a subject of legislation through organic laws according to the provisions of Articles 57 and 52 of the constitutional amendment of 2016 issued under Organic Law 16/01.
- <sup>3</sup> Mustafa Abu Zeid Fahmy, *The Egyptian Constitutional System and the Constitutional Review of Laws*, Dar Al-Matbu'at Al-Jami'iya, Alexandria, Egypt, 1996, p. 323.
- <sup>4</sup> Article 87 bis of Order 95/11 amending the Penal Code states that “any act is considered a terrorist or subversive act.”
- <sup>5</sup> Article 46 of Law 12/04.
- <sup>6</sup> Article 48 of Law 12/04.
- <sup>7</sup> Articles 03 and 04 of Law 16/01 concerning the constitutional amendment.
- <sup>8</sup> Article 51 of Law 12/04.
- <sup>9</sup> Article 05 of Law 12/04.
- <sup>10</sup> Article 26 of Order No. 06/01 concerning the Charter for Peace and National Reconciliation, Official Gazette of the People's Democratic Republic of Algeria, No. 11, dated February 28, 2006, p. 06.
- <sup>11</sup> Article 17 of Law 12/04 concerning political parties.
- <sup>12</sup> Article 19 of Law 89/11 concerning political associations (repealed), dated July 5, 1989, Official Gazette, No. 27, dated July 5, 1989.
- <sup>13</sup> Mohamed Hamli, *Mechanisms for Establishing the Rule of Law in Algeria*, PhD thesis, Faculty of Law and Political Science, University of Tlemcen 2011/2012, p. 254.
- <sup>14</sup> Article 31 bis of Organic Law No. 08/19, concerning the constitutional amendment, Official Gazette, No. 63, dated November 16, 2008.
- <sup>15</sup> Amar Boudiaf, *The Law of Political Parties*, Bridges for Publishing and Distribution, Constantine, Algeria, First Edition, 2012, pp. 52-53.
- <sup>16</sup> Article 10 of Organic Law 12/04.
- <sup>17</sup> Article 2/04 of the Algerian Civil Code.

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<sup>18</sup>- Legislation differs regarding the methods of establishing political parties. In some countries, such as Germany, the constitution states that ‘the creation of parties is free from any restriction’, delegating the task of penalising violators of this freedom to the competent judiciary. Other legislation has opted for a notification system whereby individuals inform the relevant administration of their intention to engage in party activities, enabling the administration to take the necessary measures to protect public order. Some legislations adopt a licensing system, whereby individuals require prior authorisation from the relevant administrative authority to engage in party activities. For more details on these two systems, see Mohamed Rahmouni’s PhD thesis, *Regulating the Practice of Freedom of Assembly in Algerian Law (Associations and Political Parties as Models)*, Faculty of Law and Political Science, University of Tlemcen, 2014/15, pp. 48–; Naaman Al-Khatib’s *Political Parties and Their Role in Contemporary Governance Systems*, Dar Al-Thaqafa for Publishing and Distribution, undated, pp. 113–117; and Sabah Mustafa Al-Masri’s *The Party System: A Comparative Study*, Modern University Office, Alexandria, Egypt, 2007, p. 339.

<sup>19</sup>- Article 19 of Law 12/04.

<sup>20</sup>- Article 14 of Law 97/09 (repealed) concerning political parties.

<sup>21</sup>- Article 14 of Law 97/09 (repealed) concerning political parties.

<sup>22</sup>- Article 14 of Law 89/11.

<sup>23</sup>- Article 12 of Law 97/09 (repealed) concerning political parties.

<sup>24</sup>- Article 20 of Organic Law 12/04 concerning political parties.

<sup>25</sup>- Article 121 of Organic Law 12/04 concerning political parties.

<sup>26</sup>- Article 23 of Organic Law 12/04 concerning political parties.

<sup>27</sup>- Article 24 of Organic Law 12/04 concerning political parties.

<sup>28</sup>- Article 22 of Organic Law 12/04 concerning political parties.

<sup>29</sup>- Article 901 of the Civil and Administrative Procedures Code.

<sup>30</sup>- Article 4/21 of Organic Law 12/04 concerning political parties.

<sup>31</sup>- Article 76 of Organic Law 12/04 concerning political parties.

<sup>32</sup>- Article 221 of Organic Law 12/04 concerning political parties.

<sup>33</sup>- Article 1/24 of Organic Law 12/04 concerning political parties.

<sup>34</sup>- Article 326 of Organic Law 12/04 concerning political parties.

<sup>35</sup>- Article 2/24 of Organic Law 12/04 concerning political parties.

<sup>36</sup>- Articles 24 (3) and (4) of Organic Law 04/12 concerning political parties.

<sup>37</sup>- Article 125 of Organic Law 04/12 concerning political parties.

<sup>38</sup>- Article 2/25 of Organic Law 04/12 concerning political parties.

<sup>39</sup>- Article 35 of Organic Law 04/12 concerning political parties.

<sup>40</sup>- Article 43 of Organic Law 04/12 concerning political parties.

<sup>41</sup>- Article 335 of Organic Law 04/12 concerning political parties.

<sup>42</sup>- Articles 36 (1) and (2) of Organic Law 04/12 concerning political parties.

<sup>43</sup>- Article 36 (3) of Organic Law 04/12 concerning political parties.

<sup>44</sup>- Article 37 of Organic Law 04/12 concerning political parties.

<sup>45</sup>- Article 27 of Organic Law 04/12 concerning political parties.

<sup>46</sup>- Article 22 of Organic Law 09/97 (repealed) concerning political parties.

<sup>47</sup>- Article 28 of Organic Law 04/12 concerning political parties.

<sup>48</sup>- Article 29 of Organic Law 04/12 concerning political parties.

<sup>49</sup>- Article 31 of Organic Law 04/12 concerning political parties.

<sup>50</sup>- Article 32 of Organic Law 04/12 concerning political parties.

<sup>51</sup>- Article 30 of Organic Law 04/12 concerning political parties.

<sup>52</sup>- Article 33 of Organic Law 04/12 concerning political parties.

<sup>53</sup>- Article 76 of Organic Law 04/12 concerning political parties.

<sup>54</sup>- Article 34 of Organic Law 04/12 concerning political parties.