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		The role of the Independent Election Authority during the presidential election nomination phase	
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Abstract All individuals equally enjoy the right to run for office, a right guaranteed by the constitution. The principle of universal candidacy is one of the most crucial pillars that lend significant importance to the nomination period in all elections. As soon as the nomination period opens for various positions, candidates rush to submit their candidacy files. However, despite being a universal right, meaning everyone can exercise it, candidacy must comply with certain conditions and procedures that ensure only those who meet these conditions are accepted. This guarantees fair competition among candidates. Therefore, Algerian legislation grants the authority the power to monitor and regulate the nomination period for presidential elections. Democratic countries guarantee the principle of the right of the governed to become rulers. The right to run for office is an indication of the democracy of the electoral system, which is based on the rule of law. International and regional conventions have always called for this right. In order to actually exercise this right, a set of conditions were surrounded in order for the electoral process to proceed properly and to ensure its credibility and integrity. The candidacy stage was surrounded by various guarantees and procedures, whether running for various presidential, legislative or local elections.			
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Introduction

Since all individuals have the right to run for office, and it is a constitutionally guaranteed right, the principle of general candidacy is one of the most important pillars that extends great importance to the period of submitting nominations and at the level of all elections. As soon as the door for nominations for various positions is opened,

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candidates rush to submit their candidacy files. However, although it is a right on the one hand and is characterized by generality, meaning that everyone can exercise this right, it must be subject to conditions and procedures through which the candidacy of only those who meet these conditions will be accepted and fair competition between candidates will be guaranteed. Therefore, Algerian legislation granted the authority to monitor and regulate the period for submitting nominations for the presidential elections.

This study aims to highlight the role of the Independent National Electoral Authority in the presidential election nomination phase. By answering the following question: Has the Algerian legislator, through the powers of the Independent National Elections Authority enshrined in Order No. 21-01, as amended and supplemented, achieved the goal of protecting the rights of candidates on the one hand and the rule of law on the other ?

Which is answered through the following axes:

The first axis: The conceptual and legal framework of the Independent National Elections Authority

The second axis: The powers of the Independent National Elections Authority during the nomination phase for the presidential elections.

The first axis: The conceptual and legal framework of the Independent National Elections Authority

The year 2012 witnessed a series of legislative texts regarding the organization of the electoral process, through the imposition of new mechanisms for supervision and control over it, in the belief that assigning this task to independent bodies ensures the protection of the democratic system in the Algerian state, and allows the people to decide and choose the authority that represents them and undertakes their affairs without any pressure or influence on their opinion. The Algerian state has worked each time to expand the powers of these bodies by adopting a new method represented by both the Supreme Authority and the Independent Election Authority, the latter of which was recently settled upon by both the constitutional founder and the Algerian legislator.

First: The concept of independent national authority.

We will discuss the definition of independent authority, passing through its sources.

1- Definition of independent national authority.

The Algerian legislator did not know the Independent National Elections Authority clearly and explicitly, contenting himself, as usual, with not delving into definitions and limits, leaving that to jurisprudence, and through our extrapolation of the texts of the articles of Organic Law No. 21-01, where Article 07 stipulated, "In accordance with the provisions of the Constitution, the Independent National Elections Authority guarantees the preparation, organization, management, and supervision of all electoral and referendum processes¹."

While Article 08 of the same law stipulates that the Independent National Elections Authority enjoys legal personality and administrative and financial independence and is called at the heart of the text "the Independent Authority²."

From the previous definition, it can be said that this authority, which was entrusted with the task of ensuring the smooth running of the electoral process in good conditions and across all stages, is responsible for securing the electoral process on the one hand, and ensuring integrity and transparency on the other, while adhering to complete neutrality.

This body also plays the original oversight role over the electoral process, which would activate political participation. Article 09 of Organic Law 21-01 specifies the headquarters of the Independent National Authority in

¹-Article 07 of Order Order 21-01 dated 26 Rajab 1442 AH corresponding to 10 March 2021, relating to the electoral system, No. 17, issued in 2021.

Article 08 of Order 21-01, relating to the electoral system, mentioned above ² -.

the city of Algiers, but in case of necessity, it may be transferred by decision of the President of the Independent National Authority to another place in the national territory¹.

2- Sources of independent national authority

The Independent National Elections Authority was established on the ruins of the dissolved Independent High Authority for Election Monitoring after the latter proved its failure in legislative and local electoral entitlements, and the people rejected another term for the president. Consequently, Article 102 of the 2016² Constitutional Amendment was implemented, and the former president resigned, dissolved this body, and was replaced by the Speaker of the National Assembly to become the head of state. With the continuation of the current constitution, the formation of a mediation and dialogue committee, and the emergence of two organic laws, one related to the electoral system and the other related to the independent national electoral authority, then all of this represents legal and political foundations for the authority.³

-The National Committee or Authority for Mediation and Dialogue: A committee or body was formed under the leadership of a well-known figure to undertake this task, called the Dialogue and Mediation Committee or Authority. During this, meetings were held at the level of almost all states, in which views were exchanged and proposals and solutions were presented to return to political reform and democratic transition. The results obtained were the necessity of going to presidential elections as a necessity required by the security, economic and social context. While ensuring the achievement of the political and legal conditions and mechanisms that guarantee this within the framework of integrity, transparency and neutrality, while strengthening bridges of trust between the people and the authorities, raising the issue of taking calming measures, and accelerating the creation of a permanent independent authority to organize and supervise elections, with broad powers and financial and administrative independence, in addition to partially amending the Organic Elections Law to pave the way towards holding transparent and fair presidential elections, The Commission announced that it is preparing two draft texts on the independent authority to organize elections and the organic law for the electoral system, with the necessity of presenting them to various actors in the national arena, the people, parties, the Council of Ministers, and the Council of State, to obtain their opinion on these two laws, and to present them to Parliament for discussion and approval.⁴

Second: The legal system of the Independent National Electoral Authority:

Equality between competing parties constitutes a guarantee for achieving fair elections, and this requires the establishment of independent oversight bodies. On this basis, the 2012 Election Law introduced a new model for monitoring the electoral process by stipulating the establishment of two committees: the National Election Monitoring Committee in Article 171 and the National Election Supervision Committee in Article 168. It should be noted that legal oversight before this date was not enshrined in either the Constitution or the law.⁵

Following the 2016 constitutional amendment, the assignment of election oversight to an independent supreme body was enshrined in the constitution. This necessitated a review of the electoral law, which was replaced by Organic Law 16/10. Organic Law 16/11 was also issued to define the tasks of the independent supreme body for election oversight, its formation, organization, and conduct.⁶

Article 09 of Order 21-01, relating to the electoral system, mentioned above¹⁻

² - See Article 102 of Law 16-01 containing the Constitution of the People's Democratic Republic of Algeria 2016, dated March 6, 2016, Official Gazette No. 14, issued on March 7, 2016, amended and supplemented

³ Tamer Khalidi, The Independent National Election Authority in Algerian Legislation, Journal of the Research Professor for Legal and Political Studies, Volume 05, Issue 02, 2020, p. 772

⁴ Tamer Khalidi, previous reference, p. 772.

⁵ -Nisreen Ghazal, National Election Monitoring Committees in Algerian Electoral Entitlements, Journal of Judicial Jurisprudence, Issue 02, Laboratory of the Impact of Judicial Jurisprudence on the Legislative Movement, Faculty of Law and Political Science, Mohamed Khider University, Biskra, Algeria, October 2019, pp. 404-405.

⁶ Article 1 of Organic Law No. 16/11 dated August 25, 2016, relating to the Independent High Authority for Election Monitoring, No. 50, issued on August 28, 2016.

We note that the Algerian legislator has assigned this body the authority to ensure that the arrangements for submitting candidacy files are consistent with the provisions of the Basic Law relating to the electoral system, in addition to ensuring the receipt of receipts for submitting candidacy files. The latter is studied within the deadlines specified by law and the extent to which the rejection of nominations is consistent with the electoral law, not to mention its role in ensuring the ability of political parties participating in the elections and free candidates to appoint their legal representatives at polling stations and clerks to exercise their supervision over the electoral process during the voting and vote-counting processes.¹ This body played a key role in monitoring the legislative elections held in Algeria in 2017.

However, the situation that Algeria experienced following the popular movement that began on February 22, 2019, and the rising voices calling for the necessity of granting legitimacy and integrity to the presidential, parliamentary and local elections, prompted the Algerian legislator to abandon the Independent High Authority for Election Monitoring and replace it with the Independent National Elections Authority, and this was in accordance with Organic Law 19/07, which necessitated reconsidering Election Law 16/10 and amending it in accordance with Organic Law 19/08 To consolidate the role of the National Authority in managing the electoral process, but we must note that its role during this stage was focused on monitoring the presidential elections, given Algeria's preparations for the December 12, 2019 presidential elections.

On the occasion of the 2020 constitutional amendment, the Independent National Authority received its constitutional basis, which emphasizes its role during the electoral process. The constitutional founder stated that: "The Independent National Authority for Elections is responsible for preparing, organizing, and conducting presidential, legislative, and local elections, as well as referendum operations, and supervising them".

The Independent National Electoral Authority carries out registration and review of electoral lists, preparation of the electoral process, voting and counting processes, and adjudication of electoral disputes in accordance with applicable legislation.

The Independent National Electoral Authority shall exercise its duties from the date of summoning the Electoral College until the announcement of the provisional results of the vote.

The National Elections Authority exercises its duties in transparency, impartiality and non-discrimination.²

This text was enshrined in the issuance of the Elections Law of 2021, where the first chapter (Articles 07-49) was devoted to explaining the management and monitoring of the electoral process by the Independent National Elections Authority, while other legal texts of the same law reflected the areas of its work and intervention in the various stages of the electoral process. The Authority began exercising its powers in practice immediately after the issuance of the new electoral law for the legislative administration on June 12, 2021. This is evident in the series of decisions and regulations taken by the Authority regarding its organization, as stipulated in the text of Order 21/01, as amended and supplemented, which it is working to publish for implementation through its own website.³

The second axis: The powers of the Independent National Elections Authority during the nomination phase for the presidential elections

Nomination is a political right for citizens, as the Independent National Elections Authority receives candidacy files for the presidential elections in accordance with the condition and procedures stipulated by law, and this is what we will discuss.

First: Conditions for running for presidential elections

¹-Nasira Chahati, The Legal System of the Independent High Authority for Election Monitoring in Algeria (with an appendix containing the amendments included in Organic Laws No. 19/07 and 19/08 dated 09/14/2019 relating to the National Elections Authority and the Election System respectively), Modern University Publishing, Algeria, 2020, pp. 52-53.

²- Article 202 of the Constitution of the People's Democratic Republic of Algeria 2020, dated 15 Jumada I 1442, Official Gazette No. 82, issued on 30 December 2020.

³- All decisions issued by the Independent National Elections Authority can be viewed through the following website: <https://ina-elections.dz>.

Article 87 of the 2020 Constitutional Amendment states that candidates for the presidency must be eligible for the following:

- He has only the original Algerian nationality, and proves the original Algerian nationality of the father and mother
- He professes Islam and is forty (40) full years old on election day
- Enjoys full civil and political rights;
- Proves that his wife only has Algerian nationality;
- Proof of permanent residence in Algeria for at least ten years before submitting the candidacy and proof of his participation in the November 1, 1954 Revolution if he was born before July 1942;
- It is proven that his parents were not involved in actions against the November 1 Revolution if he was born after July 1942;
- - He submits a public declaration of his real estate and movable property inside and outside the country.¹

Second: Nomination procedures

The Independent National Elections Authority receives the candidacy files for the presidential elections and decides on them by a reasoned decision within seven days from the date of submitting the permit. It ensures that the special conditions and procedures related to submitting candidacy files are sound, in accordance with what was stated in Order No. 21-01 mentioned above. It monitored them in the 2019 presidential elections in accordance with Organic Law No. 10-16 related to the electoral system:²

As for the presidential elections, Article 249 of Law No. 21-01 stipulates that a nomination permit shall be attached to the administrative file, extracted from the birth certificate, Criminal Record No. 03, Algerian nationality certificate, a copy of the identity card, a copy of the voter card or registration certificate on the electoral list, a certificate of performing national service or exemption from it, two copies of the party leader and the candidate who heads the list and the rest of the candidates, and a certificate of recommendation from the party. As for the independent candidates, they attach to their file a form for subscribing to personal signatures, and a copy of the accreditation report issued by the head of the competent electoral administrative committee.³

Articles 251 and 252 of Order 21-01 stipulate that: The nomination permit shall be submitted within a maximum of forty days following the publication of the presidential decree containing the summoning of the electoral body. Article 252 also stipulates that the independent national authority shall decide on the validity of nominations for the presidency of the republic by a legally reasoned decision within a maximum period of 7 days from the date of submission of the permit.⁴

From what has been discussed, we note that the Algerian legislator has surrounded the candidacy process with a set of guarantees by imposing a set of conditions stipulated in Organic Law 21-01 as well as the 2020 Constitution, and by following certain procedures stipulated by law for candidacy. The candidate for the elections continues to aspire to fair competition with the rest of the parties. This task falls on the administration, as it is responsible for controlling electoral competition.

Article 249 of the aforementioned Order No. 01-21, which was stipulated in Article 139 of Organic Law No. 10-16 relating to elections, stipulates the nomination procedures and deadlines for submitting them. Article N stipulates how to run for the presidency, as it states that the candidate shall personally submit his application to the President of the National Authority of the Republic, Independent for Elections, in exchange for receiving a receipt, where the

¹- Article 87 of the Constitution of the People's Democratic Republic of Algeria 2020, mentioned above.

²- Rabie Rahmani, Mohamed Barakat, The Role of the Independent National Electoral Authority in the Presidential Elections in Algeria, Journal of the Research Professor for Legal and Political Studies, Volume 06, November 2021, p. 26.

³- See Article 249 of Order 21-01 relating to the electoral system.

⁴- Articles 251-252 of Order 21-01 relating to the electoral system.

nomination declaration includes the name, title, signature, profession and address of the candidate. The application shall be accompanied by a file containing the supporting documents related to the conditions for candidacy. Article 140 of Organic Law on Elections, 10-16 relating to the electoral system, stipulates that the declaration of candidacy for the presidency of the Republic shall be submitted within a maximum of forty-four days following the issuance of the presidential decree summoning the electoral body. The President of the Independent National Elections Authority shall inform the Authority of the decisions related to the candidate's candidacy. The Authority shall also send a copy of its decisions related to the candidacy, as well as the candidacy files, to the Constitutional Court (formerly the Constitutional Council), within twenty-four (24) hours from the date of their issuance.¹

The procedures for running for the presidency of the republic go through a set of stages, starting from studying the candidacy file to arriving at the results of the study.

1- Study of candidacy files for the presidential elections: Order 21-01 included the total procedures followed by the independent authority during its study of candidacy files for the presidential elections in its articles 249 to 255 and Article 26 thereof as follows:²

A permit to run for the presidency of the republic shall be prepared by the candidate personally submitting the registration application to the head of the independent authority in exchange for a receipt. The permit shall be accompanied by a receipt for payment of the legally prescribed guarantee, in addition to the signatures stipulated in this order and various documents proving that the candidate meets the candidacy conditions stipulated in the constitutional amendment and the order containing the organic law for elections. The nomination declaration includes all the data of the candidate for the presidency of the republic, such as name, title, signature, address, and is attached to a file that includes all the supporting documents for the conditions for candidacy for the presidency of the republic, including: the candidate's birth certificate, nationality certificate, and other certificates and honorary declarations contained in Organic Law 21-01. The deadlines for submitting the nomination declaration are set at forty-four days following the publication of the presidential fees, which includes summoning the electoral body at most. The Authority Council receives nomination files without prejudice to Paragraph 03 of Article 121 of the Constitution, and decides on them as a deliberative body in accordance with Article 26 of Order 21-01. However, by referring to the text of Article 121 in its Paragraph 03, we find that it concerns the President of the Republic's appointment of the presidential third of the members of the National Assembly and the conditions for his selection of them. Accordingly, the question arises about the relevance of this article to the Authority Council's reception of nomination files for the Presidency of the Republic and its decision on them.

2. Results of the study of nomination files by the Independent Election Authority: The Independent Authority shall decide on the validity of nominations by a legally reasoned decision within a maximum period of seven days from the date of their submission. The decision shall be communicated to the candidate immediately upon its issuance and shall include either:

- Accepting the candidacy file on the basis of the validity of the nominations and the entry of the recognized candidate as an electoral candidate.
- Rejection of the candidacy file due to failure to meet the candidacy conditions, failure to collect the required signatures, or lack of candidacy file documents. The Independent National Elections Authority shall send its decisions, attached to the files, to the Constitutional Court within 24 hours from the date of their issuance.³

Conclusion:

From what has been studied, we draw the following conclusions:

¹ Rabie Rahmani, Muhammad Barakat, op. cit., p. 26.

² See Articles 249 to 255 and Article 26 of Order 21-01, relating to the electoral system, mentioned above.

³ Fadhila Aqrout, Khashmoun Malika, *Appealing the Decisions of the Independent National Elections Authority Before the Constitutional Court - Presidential Elections as a Model - Journal of Rights and Freedoms*, Volume 10, Issue 01, 2022, pp. 1254-1255.

The stage of starting to submit candidacy files for the presidential elections is preceded by an important stage, which is the announcement of the organization of upcoming elections, which are determined from the beginning of summoning the electoral body by presidential decree ninety (90) days before polling day, and the elections are held within the thirty (30) days preceding the end of the term of the President of the Republic.

The position of President of the Republic is the highest position in the state. He is the guardian of protecting and defending the state, achieving its stability and sovereignty, ensuring the supremacy of the constitution, and implementing laws and regulations without violating them. Whoever places the right person in the right place, and due to the sensitivity of the position of President of the Republic, surrounds the process of running for the presidential elections with conditions and procedures that guarantee the safety of the position from fraud and manipulation. Hence, the absence of these conditions prevents a person from running for office. Thus, the theory of non-electability is applied, which has been known for a kind of strictness and rigor in the conditions for running for office. Perhaps the goal of this is to achieve the consolidation of the national dimension of the President of the Republic, as it stipulates the following conditions:

If all the conditions stipulated in Article 87 of the Constitution are met by the person, he can deposit a permit to run for the President of the Independent National Authority in exchange for a receipt. This permit includes the name, title, signature, profession and address of the candidate, who must attach this candidacy to a file containing 20 documents that vary between copies and documents proving the above conditions in addition to other papers. This is what Article 249 of the Elections Law contains

- The candidate must submit a list of signatures that are recorded in an individual printout and certified by a public officer, and deposited with the independent national authority along with the candidacy file. Among the positive conditions for running for the presidential elections is the process of collecting signatures. He stressed this condition, as if the specified number of signatures is reached, the candidate's file is rejected, especially with regard to citizens' signatures. In this case, the legislator is keen on two things: The existence of a popular base for the candidate and the keenness to recommend the individual of his own free will to whomever he deems appropriate by extending his signature, while the second matter prevents the way for people who run only in order to work to spoil the election day.
- - The nomination permit shall be deposited by the candidate within forty (40) days at most following the publication of the decree summoning the electoral body. The independent national authority shall undertake the process of monitoring and verifying the validity of the nomination files and the fulfillment of all conditions, whether related to the constitutionality or those found in the electoral law. This shall be within seven (07) days calculated from the date of depositing the nomination permit before its president pursuant to a legally reasoned decision.
- Once the Authority has completed the process of deciding on the validity of nominations for the Presidency of the Republic, the law obliges it to communicate its decision to the candidate concerned, and it also sends its decisions related to the process of deciding on the validity of nominations and nomination files to the Constitutional Court within a maximum of twenty-four (24) hours from the date of issuance of its decision.
- The electoral law did not specify the legal period for the authority to communicate its decision to the concerned parties. On the other hand, the law enabled the candidate whose file was rejected by the authority to file an appeal with the Constitutional Court within forty-eight (48) hours of being notified of the decision, as the latter is responsible for deciding on this appeal within a period of seven (07) days from the date of sending the last decision from the independent authority.

The Constitutional Court has the authority to approve the final list of candidates for the presidential elections within a maximum period of seven (07) days from the date of sending the last decision from the authority, and the Constitutional Court's decision shall be published in the Official Gazette of the Algerian Republic. This is an implicit expression by the legislator that the court's decision to decide on the appeals referred to it regarding the authority's rejection of the nominations of some is a final decision that cannot be appealed again, and the person concerned is not notified of its decision, but rather is informed of it as soon as the final list of candidates is published. In this case, once the final list is approved, it is impossible for the candidate to withdraw his candidacy except in the event of a

serious impediment or death, and the Constitutional Court has the authority to prove the impediment legally, and in this case a deadline is opened in order to submit a new candidacy to replace the place of the deceased candidate or the one who suffered a serious impediment and within a period not exceeding a month.

Therefore, we suggest:

Determining the legal period for the authority to communicate its decision to the concerned parties, as we note that the law enabled the candidate whose file was rejected by the authority to submit an appeal to the Constitutional Court within forty-eight (48) hours of being notified of the decision, as the latter is responsible for deciding on this appeal within a period of seven (07) days from the date of sending the last decision from the independent authority .

Ethical Considerations

The research adheres to academic integrity and ethical guidelines in line with COPE (Committee on Publication Ethics). All interpretations are supported by published sources, with due acknowledgment of authors' intellectual contributions. No human participants were involved, and no data manipulation or plagiarism is present.

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Conflict of Interest

The authors declare no conflict of interest. Both authors contributed equally to the conceptualization, analysis, and drafting of this study.

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