



# THE ETHICALIZATION OF ELECTORAL WORK IN ALGERIA: AN ANALYTICAL DESCRIPTIVE STUDY OF THE PROVISIONS OF ORDER 21-01

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## Abstract:

Through the provisions of Order No. 21-01, which includes the organic law of elections, the Algerian legislator adopted a series of measures to ethicalize the electoral process across its various stages to ensure its integrity and smooth conduct. This includes aspects related to the preparatory stage, the nomination stage, and the electoral campaign. The main aspects of ethicalization under the framework of the organic law of elections manifest throughout all stages of the electoral process by introducing new conditions, provisions, controls, and mechanisms to combat corrupt political money, aiming to achieve integrity and transparency in the electoral process.

**Keywords:** Ethicalization; Electoral process; Organic law of elections 21-01.

## INTRODUCTION

The legislative system related to elections in Algeria has undergone several transformations since independence to the present day. The founder and legislator have attempted to adjust and organize it according to the requirements of each of these stages, ensuring the smooth operation and integrity of the electoral processes. These transformations can be divided into two main phases: the phase of administrative supervision over the electoral process, and the phase of supervisory control through an independent constitutional authority.

The administrative supervision phase was characterized by the task of organizing, supervising, and monitoring the various electoral operations being assigned to the administration for many years and decades. The administration was accused on more than one electoral occasion of not maintaining neutrality, which prompted the legislator to revise the electoral provisions multiple times (1996, 2012, 2016), without altering the administration's role and position in the electoral process as a whole.

The gradual transformation began with the constitutional amendment in 2016, which established a high independent authority to monitor elections, despite its limited role in supervising the electoral process then administered. This situation continued until 2019, when Algeria entered a new phase known as the popular movement, which brought forth new concepts at the political and legal levels. Among the most significant was the adoption of the concept of ethicalizing public life in the draft constitutional amendment of 2020, sharply focusing for the first time on ethicalizing political life as a general framework for recalibrating and organizing political work to align with the demands of the phase and the objectives of the popular movement aiming to combat corrupt political money and exclude officials involved in corruption cases, leading to legal proceedings against prominent state figures.

This urgency led to the announcement of early presidential elections as the first stage of ethicalizing political life, paving the way for subsequent reforms announced within fifty-four (54) commitments. Among the most important was the revision of the constitutional document and the organic law of elections, which was effectively embodied at the legislative system level through the constitutional amendment of 2020. This amendment abandoned the system of administrative supervision over the electoral process and adopted a new system that assigns all electoral operations—organization, supervision, and control—to an independent regulatory authority.



This transformation was not limited to the entity responsible for supervising the electoral process but also extended to include some concepts. As soon as Order No. 21-01 was issued, the concept of ethicalizing the electoral process emerged as an integral part of ethicalizing political life, all concepts generated by the transformations and amendments affecting the legal system related to elections, through which the Algerian legislator attempted to recalibrate this process to achieve integrity and transparency of the various electoral operations by introducing a set of controls and provisions, which together may constitute guarantees for the smooth operation of the electoral process and its ethicalization.

**Study problem:**

The problem of this study can be formulated in the following questions:

- What are the main controls and provisions introduced by the texts of Order No. 21-01, which includes the organic law of elections, which are considered manifestations of the ethicalization of electoral work in Algeria?
- Do these controls constitute real guarantees for the integrity of the electoral process?

We will attempt to answer these questions through dividing the study plan into four main Topics. The first Topic deals with identifying the most important aspects of ethicalizing the electoral process during the election preparation phase. The second Topic highlights the aspects of ethicalizing the electoral process during the nomination phase. The third Topic is dedicated to discussing the aspects of ethicalizing the electoral process during the electoral campaign phase, and the fourth Topic addresses the aspects of ethicalization during the voting phase and the announcement of results.

**1. Aspects of Ethicalizing the Electoral Process during the Election Preparation Phase**

The preparation, organization, and supervision phase is one of the most critical stages of the electoral process due to the mobilization of material and human resources required to ensure the smooth operation of the process. This necessitated the legislator to regulate and control this stage with a set of legal measures enacted under the provisions of ([Order No. 21-01, 2021](#)), which includes the organic law of elections. These measures collectively constitute guarantees for the ethicalization of the electoral process. The most important aspects of ethicalization during this stage are:

**1.1 Assigning the process of preparation, organization, and supervision of electoral operations to an independent authority instead of the administration (the necessity of independence to ensure fair elections)**

The Algerian legislator, through the provisions of Order No. 21/01, introduced a new mechanism for supervising various electoral and referendum operations, assigning this task exclusively to the independent electoral authority, considered an independent regulatory body ([Mouloud, 2018, p. 244](#)). This authority oversees the proper conduct of electoral operations from the call of the electorate to the final announcement of results, ensuring their transparency and integrity, combating all forms of corruption that may affect them, and working to restore the trust of voters lost due to the actions and behaviors of candidates and the authority that used to organize and supervise elections ([Haidour, 2022, p. 701](#)). These factors prompted the legislator to establish the independent electoral authority and charge it with ensuring the smooth operation of the electoral process ([Lamine, 2020, p. 45](#)).

**1.2 Constitutional consolidation of the independent electoral authority as a guarantee of the integrity of the electoral process**

The constitutional document of 2021, for the first time within its provisions, adopted a constitutional regulatory body named the National Independent Electoral Authority. It is defined as "an independent institution responsible for preparing, organizing, and managing presidential, legislative, and local elections, and referendum operations, and supervising them. It handles the registration in electoral lists, their revision, preparation of the electoral process, voting and counting operations, and adjudication in electoral disputes according to the applicable legislation, from the date of calling the electoral body until the phase of announcing the provisional results of the vote."



Therefore, the constitutional founder's adoption of the independent electoral authority and its inclusion among the regulatory bodies in the context of the 2020 constitutional amendment itself constitutes a guarantee for the integrity of the electoral process (Bouraiou, 2022, p. 1537), granting members of the authority independence and freedom in performing the tasks entrusted to them in compliance with legal texts.

### **1.2.1 The Sole Authority Responsible for the Preparation, Organization, Supervision, and Oversight of the Electoral Process**

The Independent Electoral Authority, as the sole constitutional institution legally empowered to oversee the integrity and transparency of the electoral process through its various stages, exercises many powers specified in the provisions of the 2020 constitutional document and the Organic Law of Elections 21/01. Among the most important are the preparation and organization of elections. In this context, the Independent Electoral Authority is charged with maintaining the national voter registry, the municipal electoral lists, and the electoral lists for the national community abroad, subsequently updating them regularly and continuously. The authority is also responsible for preparing voter cards and distributing them to their holders<sup>1</sup>.

The Independent Electoral Authority oversees all electoral operations (local, legislative, presidential, and even referendums presented to the people). It provides the necessary electoral documents and equipment for conducting these electoral and referendum operations, legally authorized to supply all material and human resources needed to organize and manage the electoral process in coordination with all administrative institutions and bodies at the local and national levels (Article 203, 2020).

In the context of election preparation, the Independent Electoral Authority is tasked with accrediting candidate representatives to monitor electoral operations inside voting centers and offices, a role previously held by the administration. It also coordinates with international missions charged with election observation and ensures the reception and accompaniment of their representatives<sup>2</sup>.

The Independent Electoral Authority ensures the protection of personal data of voters and candidates, raises awareness about elections, and promotes electoral culture through organizing national, regional, and local seminars by its representatives, organizing study days and seminars (Law No. 18/07, 2018), hanging posters, and distributing pamphlets to citizens. It also trains and enhances the performance of electoral process agents through its delegates at the local and national levels and appoints and mobilizes coordinators of voting centers and offices<sup>3</sup>, receives presidential election candidacy files, and determines the places for hanging candidates' posters and distributing meeting rooms.

The supervisory role of the National Independent Authority during the candidacy submission phase and the electoral campaign includes verifying the correctness and legality of signature collection forms, receiving candidacy declarations and ensuring legal requirements are met by candidates or candidate lists, deciding on candidacy files by issuing approval or rejection decisions, and overseeing candidates during the campaign phase. It ensures candidates adhere to the ethics and controls of the campaign, such as funding and poster placement in designated areas, adherence to avoiding hate speech and discrimination, not offending state symbols, and monitoring campaign accounts by the committee established at the National Independent Electoral Authority.

During the voting and polling phase, the Independent Electoral Authority monitors the voting process at voting centers and offices by ensuring the list of voting office members is posted inside the offices, verifying the proper arrangement of ballot papers based on decisions by the Independent Authority or the Constitutional Court, maintaining voting secrecy, ensuring the

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1- See: Article 10 of Order No. 21/01.

2- See: Article 09 of the Organic Law 21/01.

3- A national training session was organized via remote conferencing technology in 2021 for the benefit of electoral process coordinators under the supervision of the Independent Authority, where explanations were provided on the procedures of the electoral process and the distribution of votes.



envelopes used for voting match the voting papers, verifying the legality and regularity of the voting envelopes, and replacing members of voting offices on election day if one is absent.

### **1.2.2 Assigning the Task of Preparing and Delivering the Voter Card to the Independent Authority Instead of the Administration**

The voter card serves as a visa proving voters' registration in the relevant electoral lists, and through it, voters exercise their right to vote on election day. Due to its importance, the legislator has allocated a set of legal texts through Order No. 21/01, which regulate the process of its preparation in terms of its data, the authority charged with preparing it, and the procedures for its delivery, replacement, and withdrawal.

Based on the text of Article 02, paragraph 05 of Order No. 21/01, the voter card is "a personal card delivered by the Independent Electoral Authority to a person after registering them in the electoral list, to enable them to exercise their right to vote in electoral and referendum operations."<sup>4</sup>

Article 72 of the Organic Law No. 21/01 states that the competent authority for delivering the voter card is the Independent Electoral Authority, as it is the body charged with ensuring the proper conduct of electoral and referendum operations. The card is issued to every voter registered on the electoral list, with the assistance of various public administrations and diplomatic and consular representations abroad. The provincial delegations and delegations at the level of diplomatic or consular representations are responsible for the process of preparing the voter cards, which have a validity period set for eight (08) electoral consultations ([Article 02, 2020](#)).

## **2. Aspects of Ethicalizing the Electoral Process during the Candidacy Submission Phase**

The candidacy submission phase is equally important as other stages of the electoral process, as it organizes the process of candidates submitting their files to the designated authority, according to controls and conditions that were established under Order 21-01. The aim of these controls and conditions is to recalibrate this phase to ensure the principle of equal opportunities in candidacy and the ethical conduct of the electoral work.

### **2.1 Establishing New Conditions for Accepting Candidacy Lists**

One of the most significant aspects of ethicalizing the electoral process under the provisions of the Organic Law of Elections 21/01 during this stage is the introduction of a set of conditions that regulate the candidacy process when it comes to lists, including:

#### **2.1.1 The number of candidates on the lists must exceed the number of seats to be filled by three or two, depending on the situation**

The list of candidates for municipal and provincial people's councils, and the National People's Council, must include a number of candidates that exceeds the number of seats to be filled by three (03) in electoral districts with an odd number of seats, and by two (02) in districts with an even number of seats.

#### **2.1.2 Introducing the Principle of Gender Parity in Candidacy Lists**

The Algerian legislator abandoned the quota system used in the distribution of seats as prescribed by previous legal texts, which resulted in a fragile composition of the National People's Council during the period from 2017 to 2021. It was replaced with a parity system within candidacy lists, which requires the lists to contain an equal number of women and men. This condition is only applied in municipalities with a population of twenty thousand (20,000) or more.

Despite some criticisms of this principle for not ensuring proportional representation of women in elected councils ([Ghazi, 2023, p. 289](#)), which led to a decline in female representation in various elections held after the issuance of Order 21-01, from our perspective, this principle opens up opportunities for women and encourages them to organize themselves within recognized political parties. It eliminates the disadvantages of the quota system that produced a weak composition in elected councils and impacted political life. This led the legislator to reconsider this principle in a manner consistent with the ethicalization of electoral work, producing competent elected officials capable of performing the representative and legislative roles constitutionally and legally entrusted to them.

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4- See: Article 02, paragraph 05 of Order No. 21/01.



Furthermore, to facilitate the candidacy process and consider the specificities of remote and rural areas, the Algerian legislator intervened with Order No. 21/10, dated August 25, 2021, amending and supplementing Order No. 21/01, dated March 10, 2021, which includes the Organic Law of Elections. This provision exceptionally and transitionally allows candidate lists for municipal and provincial elections, and the National People's Council, presented under the auspices of political parties or independent lists in electoral districts that were unable to meet the parity condition, the possibility of requesting a license that includes an exemption from this condition, contingent on the approval of the Independent Authority for these requests and the declaration of list acceptance (Article 01, 2021).

### **2.1.3 Introducing Conditions for Youth and University Educational Level in Candidacy Lists**

The Algerian legislator, for the first time, introduced a youth requirement for accepting candidacy lists to encourage this demographic to engage in elections. The legislator has defined youth as being under forty (40) years of age on the day of the election, and any list that does not meet this condition is immediately rejected. This underscores the intention to involve an important segment of the community that has been overlooked or exploited by political parties for a long time in political life.

Among the conditions newly introduced under Order No. 21/01 is the requirement that one-third (1/3) of the candidates on a list must possess a university-level education. If this third results in a fractional number, it is rounded up to the nearest whole number<sup>5</sup>. The adoption of this condition by the legislator responds to repeated demands, both from political parties and civil society, as it is expected to enhance the political performance of elected officials, raise the level of representation within legislative structures, and strengthen the status of members of the National People's Council as the legislative authority.

### **2.1.4 Prohibiting More Than Two Individuals from the Same Family, Whether by Blood or Marriage, from Running on the Same List**

This condition is stipulated by Article 182 of Order No. 21/01, and its purpose is to lend credibility and seriousness to the preparation of the lists, and to combat nepotism and tribalism. The above article does not explicitly clarify the fate of lists that violate this condition as is the case with Article 181, but it is believed that lists that do not respect this condition will be directly rejected.

### **2.1.5 Adopting Exceptional and Temporary Provisions for Signature Collection to Encourage Candidacies**

Order No. 21/01 stipulates through paragraph 03 of Article 178 that signature collection is required in specific cases, according to precise legal procedures. For municipal and provincial elections, this includes the submission of a candidate list under the sponsorship of a political party that has not received more than four percent (4%) of the expressed votes or is not represented by at least ten (10) local elected officials. In the case of a list submitted under the sponsorship of a political party participating for the first time in local elections, the legal threshold for signatures is defined as a general rule. The legislator then intervened with transitional provisions on a temporary basis to modify and reduce this threshold to encourage and facilitate those wishing to run.

As a general rule, the law requires these lists to be supported by at least fifty (50) signatures from voters of the concerned electoral district for each required seat. Contrary to the general rule, Organic Law No. 21/01 includes transitional provisions in which the legislator exempted some general provisions from application, notably concerning the threshold and number of signatures to be collected<sup>6</sup>. The number of signatures required to be collected by law (50) was reduced to thirty-five (35). This was affirmed by Article 318 of Order No. 21/01.

To facilitate the candidacy process and encourage political participation, this article was amended by Order No. 21/10, dated August 25, 2021. The number of required signatures was reduced again as a condition for accepting nominations for municipal or provincial council elections, whether under the auspices of a political party or independent lists. The number was set at twenty (20)

5- See: the directive issued on September 18, 2021, by the Independent Authority.

6- See: Article 178, paragraph 03 of Order No. 21/01.



signatures to be collected from voters of the municipality concerned for each required seat, applicable to municipalities with a population of twenty thousand (20,000) or fewer.

## **2.2 Introduction of New Conditions Specific to the Candidate**

The ethicalization of the electoral process in the candidacy phase did not only focus on introducing new candidacy conditions for the lists but also extended to include the ethicalization of the candidates themselves through the adoption of new conditions by the Algerian legislator not specified in previous organic laws, the most important of which are:

### **2.2.1 Requirement of a Good Reputation and Behavior**

This condition is adopted under Article 184, Clause 07 of Order No. 21-01, which states: "It is required for the candidate not to be known among the public for his associations with dubious financial and business circles and his direct or indirect influence on the free choice of voters and the proper conduct of the electoral process." According to the text of Article 184, this condition is general, vague, and broad because the legislator did not specify mechanisms and methods for its implementation, which could allow the authority responsible for reviewing the files to act arbitrarily against the candidates. This text needs to be revised and precisely rewritten to leave no room for interpretation, doubt, or ambiguity, although some see it as a logical condition (Nouiri, 2023, p. 173).

Among the questions raised regarding the text of the article are: What is meant by "the public"? If it refers to the general public, how is this determined? What if the general public regards a candidate as honest, but the authority decides otherwise? Does the candidate have the right to access the evidence and documents proving his involvement with corrupt financial circles? And who are the authorities competent to prove this involvement? These questions have sparked much debate and discussion, leading to the decisions of the provincial coordinators of the authority being subject to judicial review in administrative courts at the first instance and then on appeal, with the State Council issuing decisions contrary to those of the administrative courts, confirming the validity of the candidates' files and their non-involvement with corrupt financial circles.

### **2.2.2 Requirement to Prove the Candidate's Tax Status**

One of the new conditions introduced by Order No. 21/01 is to exclude and reject the candidacy of anyone proven by the tax administration to owe money to the state. The aim here is to ensure transparency and integrity in the candidacy lists by preventing debtors to the state from running.

### **2.2.3 Condition of Not Serving Two Parliamentary Terms and Completing a Full Term as an Elected Official**

As part of setting the terms of representation for members of the National People's Council, Order 21-01 introduced a new condition that a candidate must not have served two parliamentary terms, whether consecutive or separate. The purpose of this limitation is to block those with influence and political money who have served for many years as representatives in parliament, thereby making room for new elected officials, which is a manifestation of the ethicalization of the electoral work, as long as the goal is legitimate. Regarding the condition of completing a full term as an elected official, it applies to candidates in elections for two-thirds of the members of the Senate, requiring that the candidate must have completed a full term as an elected official in a municipal or provincial council; otherwise, his candidacy file is rejected. It is unreasonable for an official who has not completed a five-year electoral term at the local level to run for membership in a higher council.

### **2.2.4 Requirement to Pay a Deposit**

Anyone wishing to run for presidential elections is required to deposit a guarantee of two hundred and fifty thousand Algerian dinars with the public treasury, a sum we believe is modest compared to the scale of the electoral event. This amount is refunded if the candidate obtains at least 50 percent of the required signatures or in the event of the candidate's death.

## **2.3 Mandatory Justification for the Rejection of Candidacy or Candidacy Lists**

The provincial coordinator is the sole legal authority responsible for issuing decisions to reject a candidacy or a list of candidates in local and even legislative elections. To ensure the credibility of the authority charged with organizing and overseeing these electoral processes, the legislator has



mandated that the provincial coordinator, while preparing to issue a rejection decision, adhere to a set of controls aimed at ethicalizing the electoral process in its phase related to the evaluation of candidacy files and decisions on them, particularly regarding rejections. On the other hand, providing a reasoned justification for the rejection decision acts as a safeguard for the principle of legality, protecting it from falling into the pitfalls of illegality.

Perhaps the most important of these controls is the necessity to provide a legal rationale for the rejection decision. Through this rationale, the provincial coordinator must explain the legal reasons that formed the basis for the decision to reject the candidacy of an individual, several individuals, or an entire list of candidates. A legal rationale implies the necessity of basing the decision on the absence of one of the legal conditions for accepting candidacies, as specified by the provisions of Order 21-01. For example, the coordinator might justify rejecting a candidate's file due to the lack of nationality or legal age requirement, failure of a candidate or a group of candidates to prove their status regarding national service, proven association of a candidate with dubious financial or business circles, or if the candidate has been sentenced to a final penalty depriving them of freedom and has not been rehabilitated, etc.

Regarding the rejection of a list of candidates, the provincial coordinator must base the decision on one of the cases of non-compliance with the conditions for accepting lists, such as invalid signatures, failure to reach the legal quorum, the list not meeting the gender parity condition between men and women, lack of the university level and youth condition (1/3), among other situations.

#### **2.4 Requirement for Clarity of the Rejection Decision and its Communication within Legal Deadlines**

Among the most important guarantees established to ensure the neutrality of the Independent Authority, represented by its local delegations, and to protect the rights of candidates, is the requirement for the provincial coordinator to ensure clarity and explicitness in their rejection decision. The decision must be clear and specifically address either an individual candidate or a group of candidates by their names and qualifications, or a specific list (name of the list, party, electoral district, names, and titles of the candidates on the list, etc.), and it must not be ambiguous or open to interpretation, otherwise, it could be challenged and annulled by the administrative judiciary.

The provincial coordinator is not only required to issue an explicit, clear, and legally justified decision but must also communicate it to the concerned parties (the candidate or candidates, representative of the candidate list) within a full eight (08) day period, starting from the date the candidacy declaration is filed at the provincial delegation of the Independent Authority. Failure to comply with this timeframe results in the invalidation of the rejection decision, and the candidacy is considered accepted despite the issuance of the rejection decision. This is stipulated in Article 183 of Order 21-01.

### **3. Aspects of Ethicalizing the Electoral Process During the Campaign Phase**

The electoral campaign is one of the most crucial stages of the electoral process due to the financial and human resources required to persuade voters about the electoral programs of the candidates or candidate lists. Given the importance and sensitivity of this phase of the electoral process, the legislator has designated it with precise and well-defined provisions by introducing, for the first time, provisions not included in previous texts. In doing so, the legislator aims to establish and enshrine new principles that fall within the framework of ethicalizing political life and combating corrupt political money, which is often associated with the electoral campaign.

#### **3.1 Introduction of New Controls in the Financial Aspect of the Electoral Campaign**

The integrity and credibility of the electoral process depend on excluding all means that may affect its smooth operation and reduce its credibility. Discussing the electoral campaign is inseparable from discussing its funding sources ([Abdelwahab, 2022, p. 563](#)), which often represent ways in which businessmen and financiers intervene in politics, negatively influencing the course of the electoral process. This has prompted the Algerian legislator to recalibrate this stage by introducing new mechanisms and controls to combat corrupt political money and ethicalize the electoral



campaign to ensure the credibility of the electoral process. Some of the most important of these controls are:

### **3.1.1 Mandating that Donations Exceeding 1,000 DZD Be Made Through Legally Specified Means**

To ensure the credibility and transparency of the electoral process and to combat corrupt political money that can affect the principle of equal opportunity among candidates, Algerian legislation requires all donors to pay their donations exceeding one thousand Algerian dinars (1,000 DZD) via check, bank transfer, direct debit, or bank card according to Article 91 of Order No. 21/01. This facilitates the tracking and control of all funding sources.

### **3.1.2 Mandatory Account Opening and Appointment of a Financial Secretary for the Electoral Campaign**

Under the provisions of Order No. 21/01, which includes the organic law of elections, every presidential candidate, and every legislative candidate list (excluding local and provincial elections) must open and maintain an account for the electoral campaign and subject it to scrutiny to ensure the integrity and transparency of campaign financing. Additionally, every presidential candidate or legislative candidate list must appoint a financial secretary for the electoral campaign in cases where the campaign financing consists of donations or state contributions<sup>7</sup>.

This implies that appointing a financial secretary for the electoral campaign is not mandatory in other cases where funding comes from private or party contributions, which is illogical because all sources of funding should be surrounded by the same safeguards to limit the infiltration of corrupt money into the state's political life (Elham, 2022, p. 1024).

According to the provisions of Order No. 21/01, the financial secretary of the electoral campaign can be defined as a mediator between the candidate and the contributors to the campaign's financing. This individual is solely qualified to collect funds and pay expenses related to the electoral campaign and is responsible for all management and administrative tasks they conduct in relation to others or with the candidate or candidate list. They are tasked with preparing the campaign account, which includes all resources according to their source and all expenses according to their nature. The financial secretary of the electoral campaign is appointed via a written statement, in which the candidate or the candidate appointed by a political party or an independent candidate list expresses their intent to appoint someone to handle the duties of the financial secretary for the electoral campaign. This written declaration, accompanied by the written consent of the financial secretary, is then submitted to the appropriate authorities depending on the situation. For presidential elections, the declaration is presented to the Independent Electoral Authority, while for legislative elections; it is submitted to the appropriate overseas delegation of the Independent Authority. Thus, the legislator has excluded provincial delegations from this process, which we consider an oversight on the part of the legislator in paragraph 02 of Article 97 of Order No. 21/01, as it mentions only delegations at the international level, necessitating a rewrite of the article to include provincial delegations. It is worth noting that the Algerian legislator has once again overlooked mentioning local elections and subjecting them to the same procedures related to opening campaign accounts and appointing a financial secretary for the campaign, as if corrupt political money only pertains to presidential and legislative elections and not local elections.

### **3.1.3 Mandatory Submission of the Electoral Campaign Account by an Account Auditor**

The campaign account must be presented to the Campaign Finance Monitoring Committee by an account auditor, who reviews the account after examining the supporting documents. However, submission of the account by an account auditor is not mandatory if the candidate or the list of candidates does not receive donations from individuals or state aid.

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7- The Guideline Memorandum No. 01, which includes specifying some powers of the candidate appointed by the parties or independent lists and their relationship with the financial secretary of the electoral campaign, states that if the sources of financing are limited to personal contributions and party contributions, the Campaign Finance Monitoring Committee recommends appointing a separate financial secretary from the candidates.



For candidate lists in overseas electoral districts, a certified account auditor or an equivalent body recognized by the authorities of the country where the candidate list is registered is appointed. The diplomatic or consular services verify the accreditation of the account auditor by the concerned country's authorities, provide a certification to the representative of the candidate list, and notify the Independent Authority about it, as confirmed by Article 111 of Order No. 21/01.

#### **3.1.4 State Coverage of Electoral Campaign Expenses for Young Candidates on Independent Lists**

The state's intervention in the electoral process by covering some expenses of young candidates is an aspect of ethicalizing political life in general, and the electoral process in particular. This measure encourages young people to participate in elections and contribute to political life, and it aims to end the exploitation of this demographic by wealthy individuals that has prevailed for decades.

It is important to note that the coverage of young candidates' expenses is carried out under specific legal conditions and controls. In terms of scope, the state's intervention to cover the electoral campaign expenses of young candidates on independent lists includes expenses for printing documents, publishing and advertising expenses, hall rentals, and transportation costs.

As for the conditions under which the state covers these expenses, they include the age requirement where the candidates must be under forty (40) years on Election Day ([Article 03, 2021](#)), and their candidacy must be on independent lists. This excludes young candidates on party lists from this privilege, which some consider a breach of the principle of equality in candidacy, while others see it as a privilege that contributes to the ethicalization of political life ([Article 05 , 2021](#)).

For young candidates on independent lists to benefit from the state covering their campaign expenses, the expenses incurred must be directly related to the electoral campaign. In this context, the size of the rented hall should be appropriate for the expected number of attendees, and there should be a preference for using public halls and travel by land or rail. The purpose of these guidelines is to economize on expenses and combat any manipulation or inflation of bills for the benefit of state aid. Additionally, the submission of an administrative file, which is also among the necessary conditions for accepting the coverage of expenses for young candidates on independent lists, must contain a set of documents.

#### **3.2 Establishment of a Special Committee to Monitor Electoral Campaign Financing**

In embodiment of the principle of ethicalizing political life and combating corrupt political money, which necessitates stricter oversight of campaign financing sources, a supervisory committee named "Campaign Finance Monitoring Committee" was established for the first time under the provisions of Order No. 21-01. This committee, set up within the Independent Authority, is composed of representatives from the judiciary, the executive authority, and a constitutional regulatory body. It is tasked with overseeing the campaign finance accounts, including revenues and expenditures, and has the authority to approve, amend, or reject these accounts within six (06) months from the date of their submission.

According to Article 115 of Order No. 21-01, the committee is chaired by a judge appointed by the president of the Supreme Court from among its judges, and includes two other judges representing the State Council and the Court of Auditors respectively, appointed by their respective presidents. The executive authority is represented in the Campaign Finance Monitoring Committee by a single representative from the Ministry of Finance, given its expertise in financial and accounting operations, which aids in the oversight and auditing of accounts. Additionally, the committee includes a representative from the Higher Authority for Transparency and Corruption Prevention, a regulatory constitutional body established under the provisions of the constitutional amendment in 2020.

The committee's composition highlights the significant representation of the judiciary (three judges) compared to a single representative from the executive and regulatory bodies, enhancing the credibility of the oversight process as it is supervised by the judiciary.



The Campaign Finance Monitoring Committee is the only legal mechanism authorized to oversee the campaign finance accounts for presidential and legislative elections, excluding local elections. The account auditor is responsible for submitting the campaign account to the committee within two (02) months, starting from the date the final election results are announced by the Constitutional Court. If the account is not submitted within this two-month period, the candidate or candidate list will be ineligible for reimbursement of their campaign expenses.

The committee generally reviews the accuracy and credibility of the transactions recorded in the campaign account<sup>8</sup>. In this context, the committee verifies the list data, the candidate's representative data, and the account summary. It also monitors the revenue table of the campaign account, the bank account details, and the data related to the account auditors or accounting specialists, and audits the documents attached to the account.

Within six (06) months from the date the account is submitted, the committee issues a decision which can include approval of the campaign account if the transactions and accompanying documentary evidence are verified as accurate, amendment of the account if errors that require correction are found, or rejection of the campaign account if it violates legal provisions.

One of the most significant aspects of ethicalizing political life in relation to combating corrupt political money is the transfer of any surplus funds (donations) from the campaign account to the public treasury if they exceed the maximum allowed limit for electoral expenses<sup>9</sup>. The Campaign Finance Monitoring Committee determines the amount of the excess through a formal decision and obliges the candidate to pay it to the public treasury. This measure is crucial for controlling the campaign financing process and ensuring its integrity by excluding corrupt political money.

### **3.3 Criminalization of Actions Contrary to the Provisions and Controls of the Electoral Campaign**

Through the provisions of Order No. 21/01, the Algerian legislator has criminalized all actions and behaviors that violate the terms and conditions of the electoral campaign. For the first time, penal sanctions and financial fines have been imposed on those who engage in these illegal activities, such as the crime of financing or benefiting from illegal financing, the use of hate speech (punishable by 06 to 07 years imprisonment), etc. (Hamla, 2023, p. 768). The purpose of this criminalization is to ensure the principle of equality and fair and honest competition in swaying the opinions of the electorate, and to enshrine the principle of ethicalizing both the electoral campaign and the electoral process as a whole (Amhmedi, 2023, p. 133).

## **4. Ethical Aspects of the Electoral Process during the Voting and Results Announcement Phase**

The voting (polling) process and the announcement of results are among the most critical stages of the electoral process, as they directly involve exercising the right to vote. This significance has led the Algerian legislator to regulate this phase as well with a series of new legal provisions aimed at ensuring the integrity of the electoral process and protecting the rights of candidates.

### **4.1 Introduction of a New Electoral System as an Aspect of Ethicalizing the Electoral Process**

Through the provisions of Order No. 21/01, which includes the Organic Law on Elections, the legislator has for the first time established a new electoral system for local elections and elections for the People's National Assembly. This system, different from the one adopted by the Organic Law No. 16/10, is the proportional representation system with an open list and preferential voting without mixing. This system is considered the most democratic (Haidour, 2022, p. 2425), as it allows voters the freedom to choose one or more candidates up to the number of seats available within a single list without mixing candidates from different lists. This system also gives voters the absolute authority to choose who they deem best and most suitable within a single list, thus not obliging them to choose an entire list as was previously required under the old law. This is considered a legislative achievement under Order No. 21/01, for its benefits in excluding political money in ranking candidates within lists and combating extortion and exploitation previously practiced by some parties against candidates.

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8- The appendix related to the campaign account, published on the official website of the Independent Election Authority.

9- See: Article 120 of Order No. 21/01.



#### 4.2 Establishing the Principle of Two-Tier Litigation in Electoral Matters as a Guarantee of Legitimacy

Unlike the provisions of the repealed Organic Law 16-10, where decisions issued by administrative courts were not subject to any form of appeal (non-appealable), Order 21/01 allows parties affected by a decision of the relevant regional administrative court to appeal the decision at the administrative appeals courts, within specified legal deadlines and through defined procedures, embodying the constitutionally enshrined principle of two-tier litigation. The actual realization of the two-tier litigation principle in electoral matters under Order 21-01 occurs when dealing with appeals against decisions rejecting nominations or candidate lists by the provincial coordinator of the authority, for both local and national (legislative) elections, at the competent administrative court, to be adjudicated in a ruling that is appealable to the administrative appeals courts (formerly the State Council). Regarding appeals against provisional election results, the embodiment of the two-tier litigation principle is evident in cases involving local elections only (municipal and provincial), where any party with a legitimate interest can legally challenge the provisional results announced by the provincial coordinator of the authority before the administrative court, within legal deadlines and procedures, making the administrative court's ruling appealable to the regionally competent administrative appeals court. Legal challenges related to the disputes over the list of voting office members also fall under the scope of the two-tier litigation principle, where any interested party has the right to object to this list by submitting a legally justified written objection to the coordinator of the provincial independent authority, which is then decided upon by a decision appealable to the regionally competent administrative court, and subsequently appealable at the administrative appeals court ([Salam & Bouzid Ben Mahmoud, 2023, p. 422](#)).

#### 4.3 Subjecting National Election Results to Constitutional Court Oversight and Denying Two-Tier Litigation

It should be noted that appeals against the results of the Council of the Nation elections, the People's National Assembly, presidential elections, and referendums, according to the provisions of Order No. 21-01, are presented directly before the Constitutional Court as a supervisory body. The court adjudicates these cases according to specified deadlines and procedures, and its decisions are not subject to any form of appeal ([Raïs, 2022, p. 233](#)). Thus, the legislator has excluded these from the scope of administrative judicial oversight due to their special nature, and, conversely, has deprived candidates or representatives of the lists from the principle of two-tier litigation.

#### CONCLUSION

In response to the issue raised, it can be said that the Algerian legislator has introduced a set of legal mechanisms and controls that collectively form guarantees for ethical political life. These mechanisms have significantly contributed to the recalibration of the legal provisions regulating the electoral process to ensure the integrity and credibility of elections. Among the most important findings, we mention the following:

- The Algerian legislator has attempted to recalibrate the legal provisions related to each stage of the electoral process according to its importance.
- For the first time, the authority to prepare, supervise, and monitor electoral operations has been assigned to an independent regulatory authority, as an alternative to administration.
- New conditions for accepting nomination lists have been introduced, such as conditions for youth inclusion, gender parity, and university level qualifications, among others.
- New conditions related to the candidate himself have been introduced, such as the condition of non-involvement with corrupt financial circles, despite its ambiguity.
- Mechanisms have been established to combat corrupt political money, by imposing new controls during the electoral campaign, such as the establishment of an Electoral Campaign Finance Monitoring Committee, despite some gaps and deficiencies in this framework.
- The criminalization of acts that violate the controls of the electoral campaign.

- The adoption of a new electoral system based on the freedom of voters to choose the individual rather than the list.
- The principle of two-tier litigation in front of administrative courts in electoral disputes has been enshrined.
- The task of overseeing the provisional results of national elections has been assigned to a constitutional supervisory body (the Constitutional Court) and deprived stakeholders of the principle of two-tier litigation against the results of these elections.

#### Recommendations

- It is necessary to grant sufficient independence to the members of the National Independent Authority for Elections, as it is charged with ensuring the integrity of electoral operations, by abandoning the mechanism for appointing the head of the authority and replacing it with an election mechanism as was previously the case, expediting the issuance of its internal regulations, and specifying the powers of the provincial coordinator in detail during all stages of the electoral process.
- It is recommended to revise the provisions of Article 184, Clause 07 of Order 21-01, which relates to the condition of a candidate's non-involvement with suspect financial and business circles, by rewriting it clearly and precisely, leaving no room for ambiguity and achieving the principle of legality.
- Combating corrupt political money requires subjecting all electoral operations to the scrutiny of the newly established Electoral Campaign Finance Monitoring Committee, including local elections (municipal and provincial) which were excluded from the committee's oversight by the provisions of Order 21-01. Hence, it is proposed to require the nomination lists for municipal and provincial elections to appoint a financial secretary for the electoral campaign and subject them to the committee's oversight.

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