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# ALGERIA\_2002

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**CONSTITUTION OF THE PEOPLE'S DEMOCRATIC REPUBLIC  
OF ALGERIA  
SEPTEMBER 10, 1963, AS AMENDED TO APRIL 10, 2002**

**Preamble**

The Algerian people are a free people, and decided to remain so.

Its history is a long series of struggles that always made Algeria a land of freedom and dignity.

Being at the heart of great events witnessed by the Mediterranean area throughout history, Algeria has found in her sons, since the Numid era and the Islamic epic and up to the wars of decolonization, the pioneers of freedom, unity and progress as well as builders of democratic and prosperous States during the periods of glory and peace.

The 1<sup>st</sup> of November 1954 was a turning point for its destiny and a crowning for the long resistance to aggressions carried out against its culture, its values and the fundamental components of its identity which are Islam, Arabity and Amazighity. Its current struggles are well rooted in the glorious past of the nation.

Gathered in the national movement and later within the National Front of Liberation, the Algerian people have made great sacrifices in order to assume their collective destiny in the framework of recovered freedom and cultural identity and to build authentic people's democratic constitutional institutions.

The National Front of Liberation crowned the sacrifices of the best sons of Algeria during the People's war of

liberation with independence and built a modern and full sovereign State.

The belief in the collective chokes allowed the people to achieve great successes, characterized by the recovery of the national resources and the building of a State exclusively for the benefit of the people and exercising freely its powers and without any external pressures.

Having fought and still fighting for freedom and democracy, the Algerian people, by this Constitution, decided to build constitutional institutions based on the participation of any Algerian, man and woman, in the management of public affairs; and on the ability to achieve social justice, equality and freedom for all.

The Constitution is the concretisation of the People's genius, the reflection of their aspirations, the fruit of their determination and the product of the deep social changes. Thus, in approving this Constitution, the People are, more than ever, decided to consider the law above everything.

The Constitution is above all, it is the fundamental law which guarantees the individual and collective rights and liberties, protects the principle of the People's free choke and gives the legitimacy to the exercise of powers. It helps to ensure the legal protection and the control of the public authorities in a society in which lawfulness and man's progress prevail in all its dimensions.

Strong with their deeply rooted spiritual values and preserving their traditions of solidarity and justice, the people are confident in their ability to participate efficiently in the cultural, social and economic progress of the present and future world.

Algeria, being a land of Islam, an integral Part of the Great Maghreb, an Arab land, a Mediterranean and African country is proud of the radiance of its 1<sup>st</sup> of November Revolution and is honored by the respect the country gained and knew how to preserve it through its engagement towards the just causes in the world.

The pride of the People, their sacrifices, their sense of responsibility and their ancestral attachment to freedom and to social justice are the best guaranty for the respect to this Constitution which they adopt and transmit to future generations, heirs of the freedom pioneers and the builders of free society.

## **Part I**

### **General Principles Governing the Algerian Society**

#### **Chapter I**

##### **Algeria**

**Article 1.** Algeria is a People's Democratic Republic. It is one and indivisible.

**Article 2.** Islam is the religion of the State.

**Article 3.** Arabic is the national and official language.

**Article 3a.** Tamazight is also national language.

The State works for its promotion and development in all its linguistic variations used all over the national territory.

(Translation from General Secretariat of Government)

**Article 4.** The capital of the Republic is ALGIERS.

**Article 5.** The national flag, the State seal and the national anthem are defined by the law.

## **Chapter II**

### **The People**

**Article 6.** The People are the source of any power.

The national sovereignty belongs exclusively to the People.

**Article 7.** The constituent power belongs to the People.

The People exercise their sovereignty through institutions they set up.

The People exercise it by means of referendum and through the elected representatives.

The President of the Republic may resort directly to the expression of the People's will.

**Article 8.** The People set up institutions having as objectives:

- the safeguard and consolidation of the national independence;
- the safeguard and consolidation of the national identity and unity;
- the protection of fundamental liberties of the citizen and the social and cultural progress of the Nation;
- the suppression of the exploitation of man by man;
- the protection of the national economy from any form of embezzlement or misappropriation, illegitimate monopolizing or seizure.

**Article 9.** The institutions are not allowed:

- feudal, regionalist and nepotistic practices;
- setting up exploitation relationships and dependence links;
- practices that are contrary to the Islamic ethics and to the values of the November Revolution.

**Article 10.** The People choose freely their representatives.

The representation of the People has no limits except those defined by the Constitution and the electoral law.

### **Chapter III** The State

**Article 11.** The State takes its legitimacy and its raison d'être from the People's will.

Its motto is "By the People and for the People."

It is exclusively for the service of the People.

**Article 12.** The sovereignty of the State is exercised on its terrestrial space, its air space, and its waters.

The State also exercises its sovereign right established by the international law on any of its various areas of the maritime space to which they belong.

**Article 13.** In any circumstances should a Part of the national territory be abandoned or alienated.

**Article 14.** The State is based on the principles of democratic organization and of social justice.

The elected Assembly is the framework in which is expressed the people's will and the control of the public authorities is exercised.

**Article 15.** The territorial collectivities of the State are the “Commune” and the “Wilaya.”

The “Commune” is the basic collectivity.

**Article 16.** The elected assembly represents the basis of decentralization and a place of the citizens’ participation in the management of public affairs.

**Article 17.** Public property belongs to the national collectivity.

It includes the underground, the mines and quarries, the natural resources of energy, the mineral, natural and living resources in the various national maritime areas, waters and forests.

It also includes rail, maritime and air transport, the mail and telecommunications as well as other properties defined by the law.

**Article 18.** The national properties are defined by the law.

They include public and private properties of the State, the “Wilaya” and the “Commune”.

The management of the national properties is carried out in accordance with the law.

**Article 19.** The organization of external trade is the domain of the State only.

The law defines the conditions and control of external trade.

**Article 20.** Expropriation can be carried out only within the framework of the law.

It gives right to a prior, just and fair compensation.

**Article 21.** The functions in the State institutions should neither be a source of wealth nor a means of being for the service of private interests.



**Article 22.** Power abuse is repressed by the law.

**Article 23.** The Administration's impartiality is guaranteed by the law.

**Article 24.** The State is responsible for the security of persons and properties. It ensures the protection of every citizen abroad.

**Article 25.** The enhancement and the development of the defense capacity of the Nation are organized within the National People's Army.

The permanent task of the National People's Army is to safeguard the national independence and to defend the national sovereignty. It ensures the defense of the country's unity and the territorial integrity as well as the protection of its terrestrial and air space, and the various areas of its maritime space.

**Article 26.** Algeria does not resort to war in order to undermine the legitimate sovereignty and the freedom of other peoples.

It puts forth its efforts to settle international disputes through peaceful means.

**Article 27.** Algeria associates itself with all the peoples fighting for their political and economic liberation, for the right of self-determination and against any racial discrimination.

**Article 28.** Algeria works for the reinforcement of international cooperation and to the development of friendly relations among States, on equal basis, mutual interest and noninterference in the internal affairs. It endorses the principles and objectives of the United Nations Charter.

#### **Chapter IV** Rights and Liberties

**Article 29.** All citizens are equal before the law. No discrimination shall prevail because of birth, race, sex, opinion or any other personal or social condition or circumstance.

**Article 30.** The Algerian nationality is defined by the law.

Conditions for acquiring, keeping, losing or forfeiture of the Algerian nationality are defined by the law.

**Article 31.** The aim of the institutions is to ensure equality of rights and duties of all citizens, men and women, by removing the obstacles which hinder the progress of human beings and impede the effective participation of all in the political, economic, social and cultural life.

**Article 32.** The fundamental human and citizen's rights and liberties are guaranteed. They are a common heritage of all Algerians, men and women, whose duty is to transmit it from generation to another in order to preserve it and keep it inviolable.

**Article 33.** Individual or associative defense of the fundamental human rights and individual and collective liberties is guaranteed.

**Article 34.** The State guarantees the inviolability of the human entity.

Any form of physical or moral violence or breach of dignity is forbidden.

**Article 35.** Infringements committed against rights and liberties and violations of physical or moral integrity of a human being are repressed by the law.

**Article 36.** Freedom of creed and opinion is inviolable.

**Article 37.** Freedom of trade and industry is guaranteed, it is carried out within the framework of the law.

**Article 38.** Freedom of intellectual, artistic and scientific innovation is guaranteed to the citizen.

Copyrights are protected by the law.

The seizure of any publication, recording or any other means of communication and information can only be done in pursuance of a warrant.

**Article 39.** The private life and the honour of the citizen are inviolable and protected by the law.

The secrecy of private correspondence and communication, in any form, is guaranteed.

**Article 40.** The State guarantees home inviolability. No thorough search can be allowed unless in pursuance of the law and in compliance with the latter. The thorough search can only be in pursuance of a search warrant emanating from the competent judicial authority.

**Article 41.** Freedom of expression, association and meeting are guaranteed to the citizen.

**Article 42.** The right to create political parties is recognized and guaranteed.

However, this right cannot be used to violate the fundamental liberties, the fundamental values and components of the national identity, the national unity, the security and the integrity of the national territory, the independence of the country and the People's sovereignty as well as the democratic and Republican nature of the State.

In respect to the provisions of the present Constitution, the political parties cannot be founded on religious, linguistic, racial, sex, corporatist or regional basis. The political parties cannot resort to partisan propaganda on the elements mentioned in the previous paragraph.

Any obedience, in any form of the political parties to foreign interests or parties is forbidden.

No political party can resort to any form of any nature of violence or constraint.

Other obligations and duties are prescribed by the law.

**Article 43.** The right to create associations is guaranteed.

The State encourages the development of associative movement.

The law defines the conditions and clauses of the creation of associations.

**Article 44.** Any citizen enjoying his civil and political rights has the right to choose freely his place of dwelling and to move on the national territory.

The right of entry and exit from the national territory is guaranteed.

**Article 45.** Any person is presumed not guilty until his culpability is established by a regular jurisdiction with all the guarantees required by the law.

**Article 46.** None is guilty unless it is in accordance with a promulgated law prior to the incriminated action.

**Article 47.** None can be pursued, arrested or detained unless within the cases defined by the law and in accordance with the forms prescribed.

**Article 48.** In the field of penal investigation, custody is under judiciary control and cannot exceed forty-eight (48) hours.

The person held in custody has the right to be immediately in contact with his family.

The extension of the period of custody can occur, exceptionally, only within the conditions established by the law.

At the expiry of the period of custody, it is compulsory to proceed to a medical examination of the person detained if this latter asks for it, and in any cases, this person is informed of this right.

**Article 49.** Miscarriage of justice leads to compensation by the State. The law determines the conditions and modes of compensation.

**Article 50.** Any citizen fulfilling the legal conditions can elect and be elected.

**Article 51.** Equal access to functions and positions in the State is guaranteed to all citizens without any other conditions except those defined by the law.

**Article 52.** Private property is guaranteed.

The right to inherit is guaranteed.

The “Wakf” properties and the foundations are recognized; the law protects their intended purpose.

**Article 53.** The right for education is guaranteed. Education is free within the conditions defined by the law.

Fundamental education is compulsory.

The State organizes the educational system.

The State ensures the equal access to education and professional training.

**Article 54.** All citizens have the right for the protection of their health.

The State ensures the prevention and the fight of endemics and epidemics.

**Article 55.** All citizens have right for work.

The law guarantees the right for protection, security and hygiene at work.

The right to rest is guaranteed; the law defines the relevant clauses.

**Article 56.** The trade union right is recognized to all citizens.

**Article 57.** The right to strike is recognized; it is carried out within the framework of the law.

The law may forbid or limit the strike in the field of national defense and security or in any public service or activity of vital interest for the community.

**Article 58.** The family gains protection from the State and the society.

**Article 59.** The living conditions of the citizens under the age of working or those unable or can never be able to work are guaranteed.

## **Chapter V**

### Duties

**Article 60.** Ignorance of the law is no excuse.

Every person should abide by the Constitution and comply with the laws of the Republic.

**Article 61.** The duty of every citizen is to protect and safeguard the independence of the country and the integrity of its national territory as well as all the symbols of the State.

Treason, spying, obedience to the enemy as well as all the infringements committed against the State security are severely repressed by the law.

**Article 62.** Every citizen should, loyally, fulfill his obligations towards the national community. The commitment of every citizen towards the Mother Country and the obligation to contribute to its defense are sacred and permanent duties.

The State guarantees the respect of the symbols of the Revolution, the memory of the “chouhada” and the dignity of their rightfals, and the “moudjahidine.”

**Article 63.** All the individual liberties are carried out within the respect of the rights of others recognized by the Constitution, in particular, the respect of the right for honour, intimacy and the protection of the family, the youth and childhood.

**Article 64.** The citizens are equals before the taxes.

Everyone should participate in financing the public expenses, in accordance with his contributory capacity.

No taxes can be laid down unless in accordance with the law.

No tax, contribution or duty of any nature can be laid down with a retrospective effect.

**Article 65.** The law sanctions the duty of parents in the education and protection of their children as well as the duty of the children in helping and assisting their parents.

**Article 66.** The duty of every citizen is to protect the public property and the interests of the national community and to respect the property of others.

**Article 67.** Any foreigner being legally on the national territory enjoys the protection of his person and his properties by the law.

**Article 68.** None can be extradited unless in accordance and in implementation of the extradition law.

**Article 69.** In no case, a political refugee having legally the right of asylum can be delivered or extradited.

## **Part II**

### Organization of Powers

#### **Chapter I**

##### The Executive Power

**Article 70.** The President of the Republic, Head of the State, embodies the unity of the Nation. He is the guarantor of the Constitution.

He embodies the State within the country and abroad.

He addresses the Nation directly.

**Article 71.** The President of the Republic is elected by direct, secret and universal suffrage.

The election acquired through the absolute majority of the expressed votes.

The other modes of presidential election are defined by the law.

**Article 72.** The President of the Republic exercises the supreme magistracy within the limits defined by the Constitution.

**Article 73.** To be eligible to the Presidency of the Republic, the candidate should:

- have, solely, the Algerian nationality by origin;
- be a Muslim;



- be more than forty (40) years-old the day of the election;
- enjoy full civil and political rights;
- prove the Algerian nationality of the spouse;
- justify his participation in the 1<sup>st</sup> of November 1954 Revolution for the candidates born before July 1942;
- justify the noninvolvement of the parents of the candidate born after July 1942, in actions hostile to the 1<sup>st</sup> of November 1954 Revolution;
- submit a public declaration of his personal and real estate existing either within Algeria or abroad.
- Other conditions are prescribed by the law.

**Article 74.** The duration of the presidential mandate is five (5) years.

The President of the Republic can be reelected once only.

**Article 75.** The President of the Republic takes an oath before the People and in the presence of the high authorities of the Nation, in the week following his election.

He enters into office after taking the Oath.

**Article 76.** The President of the Republic takes the Oath in the following terms:

" بسم الله الرحمن الرحيم ،

وفاء لتضحيات الكبري، ولأرواح شهدائنا الأبرار، وقيم ثورة نوفمبر الخالدة، أقسم بالله العلي العظيم، أن أحترم الدين الإسلامي وامجده، وأدافع عن الدستور ، وأسهر على استمرارية الدولة، وأعمل على توفير الشروط اللازمة للمسير العادي للمؤسسات والنظام الدستوري، وأسعى من أجل تدعيم المسار الديمقراطي، واحترم حرية اختيار الشعب والأمة، وأحمي الحريات والحقوق الأساسية للإنسان والمواطن ، وأعمل بدون هوادة من أجل تطور الشعب وازدهاره، وأسعى بكل قواي في سبيل تحقيق المثل العليا للعدالة والحرية والسلام في العالم.

والله على ما أقول شهيد ."

Translation of the terms of the Oath provided for in Article 76 of the Constitution:

"In the Name of God the Merciful and the Compassionate faithful to the great sacrifices and to the memory of our martyrs as well as to the ideals of the eternal November Revolution. I do solemnly swear by God the almighty that I will respect and glorify the Islamic religion, defend the Constitution, see to the continuity of the State and provide the necessary conditions for the normal functioning of the reinforcement of the democratic process, respect the free choice of the people as well as the institutions and laws of the Republic, preserve the integrity of the national territory, the unity of the people and the nation, protect the fundamental human and citizen's rights and liberties, work for the development and progress of the people and put all my strength to the achievement of the great ideals of justice, freedom and peace in the world. God is my witness."

**Article 77.** In addition to the powers bestowed, explicitly, upon him by other provisions of the Constitution the President of the Republic has the following powers and prerogatives:

- he is the Supreme Head of all the Armed Forces of the Republic;
- he is responsible for the National Defense;
- he decides and conducts the foreign policy of the Nation;
- he presides the Cabinet;
- he appoints the Head of Government and puts an end to his functions;
- he signs the presidential decrees;
- he has the right of pardon, remission or commutation of punishment;
- he can refer to the People through a referendum on any issue of national importance;
- he concludes and ratifies international treaties;
- he awards State medals, decorations and honorific titles.

**Article 78.** The President of the Republic appoints:

- to posts and mandates provided by the Constitution;
- to State civil and military posts;
- to nominations decided in the Cabinet;
- the President of the Council of State;
- the Secretary General of the Government;
- the Governor of the Bank of Algeria;

- the Magistrates;
- high officials of security bodies;
- the “walis.”

The President of the Republic appoints and recalls the ambassadors and the special envoys of the Republic abroad. He receives the credentials and the letters of recall of foreign diplomatic representatives.

**Article 79.** The Head of Government presents the members of the Government he chose to the President of the Republic who appoints them.

The Head of Government establishes a programme and submits it to the Cabinet.

**Article 80.** The Head of Government submits his programme for approval to the People’s National Assembly. This latter opens, for this purpose, a general debate.

The Head of Government may adapt his programme in the light of this debate.

The Head of Government addresses a communication on his programme to the Council of Nation.

The Council of Nation may issue a resolution.

**Article 81.** In case of non approval of his programme by the People’s National Assembly, the Head of Government presents the resignation of his Government to the President of the Republic. This latter appoints again a Head of Government in accordance with the same modes.

**Article 82.** If the People’s National Assembly’s approval is not obtained, the People’s National Assembly is dissolved de jure.

The Government in office is kept in position in order to manage daily affairs until the election of a new People's National Assembly within a maximum period of three (3) months.

**Article 83.** The Head of Government executes and coordinates the programme adopted by the People's National Assembly.

**Article 84.** The Government presents each year a general policy declaration to the People's National Assembly.

The general policy declaration is followed by a debate on the action of the Government.

This debate may end up with a resolution.

It may also lead the People's National Assembly to bring in a vote of censure, in accordance with the provisions of Articles 135, 136 and 137 under-mentioned.

The Head of Government may ask the People's National Assembly a vote of confidence. If the motion of confidence is not voted, the Head of Government presents the resignation of his Government.

In this case, the President of the Republic may, before accepting the resignation, use the provisions of Article 129 under-mentioned.

The Government may also present a general policy declaration to the Council of Nation.

**Article 85.** In addition to the powers bestowed upon him explicitly by other provisions of the Constitution, the Head of Government exercises the following functions:

- he distributes the functions among the members of the Government in accordance with the provisions of the Constitution;
- he presides the Council of Government;

- he sees to the execution of laws and rules;
- he signs executive decrees;
- he appoints to state offices, without prejudice to the provisions of Articles 77 and 78 above mentioned;
- he sees to the best functioning of the public administration.

**Article 86.** The Head of Government may present to the President of the Republic the resignation of his Government.

**Article 87.** The President of the Republic cannot, in any cases, delegate the power to appoint the Head of Government, the members of the Government, as well as the presidents and members of constitutional institutions for whom another mode of designation is not provided by the Constitution.

Moreover, he cannot delegate his power to resort to referendum, to dissolve the People's National Assembly, to decide on anticipated legislative elections, to implement the provisions of Articles 77, 78, 91, 93 to 95, 97, 124, 127 and 128 of the Constitution.

**Article 88.** If the President of the Republic, because of serious and long-lasting illness, happens to be in the impossibility to carry out his functions, the Constitutional Council meets de jure, and after having verified the reality of the impediment by the appropriate means, proposes, unanimously, to the Parliament to declare the state of impediment.

The Parliament sitting, in both chambers convened together, declares the state of impediment of the President of the Republic, with a majority of two-thirds (2/3) of its members and charges the President of the Council of Nation, to stand for the Head of State by interim for a maximum period of forty-five (45) days and carry out his prerogatives in accordance with the provisions of Article 90 of the Constitution.

If the impediment continues at the expiry of the forty-five (45) days period, a declaration of vacancy by resignation de jure is made in accordance with the procedure mentioned in the above paragraphs and the provisions of the following paragraph of the present Article.

In case of resignation or death of the President of the Republic, the Constitutional Council meets de jure and ascertains the permanent vacancy of the Presidency of the Republic.

It, immediately, communicates the permanent vacancy declaration act to the Parliament which meets de jure.

The President of the Council of Nation assumes the charge of Head of State for a maximum period of sixty (60) days, during which presidential elections are organized.

The Head of State, thus designated, cannot be candidate to the Presidency of the Republic.

In case the resignation or the death of the President of the Republic comes in conjunction with the vacancy of the Presidency of the Council of Nation whatever the cause may be, the Constitutional council meets de jure and ascertain, unanimously, the permanent vacancy of the Presidency of the Republic and the impediment of the President of the Council of Nation. In this case, the President of the Constitutional Council assumes the function of the Head of State in accordance with the conditions defined in the preceding paragraphs of the present Article and Article 90 of the Constitution. He cannot be candidate for the Presidency of the Republic.

**Article 89.** When one of the candidates of the second round of the presidential elections dies, withdraws or is hindered for any reason, the President of the Republic in office or who assumes the function of Head of State remains in of lice until the proclamation of the election of the President of the Republic.

In this case, the Constitutional Council extends the period of organizing the election for a maximum period of sixty (60) days.

The organic law will determine the conditions and modes of implementing the present provisions.

**Article 90.** The Government in office at the time of the impediment, the death or the resignation of the President of the Republic cannot be resigned or re shuffled until the new President of the Republic comes into office.

In the case the Head of Government in office, is candidate for the Presidency of the Republic, he resigns de jure. The function of Head of Government is assumed by a member of the Government appointed by the Head of State.

During the periods of forty-five (45) days and sixty (60) days provided for by Articles 88 and 89, the provisions in the paragraphs 7 and 8 of Article 77 and the Articles 79, 124, 129, 136, 137, 174, 176, 177 of the Constitution cannot be implemented.

During these same periods, the provisions of Articles 91, 93, 94, 95, 97 of the Constitution cannot be implemented unless the Parliament sitting in both chambers convened together gives its approval, the Constitutional Council and the High Security Council referred to before.

**Article 91.** In case of urgent necessity, the High Security Council convened, the President of the People's National Assembly, the President of the Council of Nation, the Head of Government and the President of the Republic decrees the state of emergency or the state of siege, for a definite period and takes all the necessary measures to restore the situation.

The duration of the state of emergency or the state of siege cannot be extended unless with the approval of the parliament sitting in both chambers convened together.

**Article 92.** The organization of the state of emergency and the state of siege is defined by an organic law.



**Article 93.** When the country is threatened by an impending danger to its institutions, to its independence or to its territorial integrity, the President of the Republic decrees the state of exception.

Such a measure is taken after referring to the President of the People's National Assembly, the President of the Council of Nation and the Constitutional Council, and hearing the High Security Council and the Cabinet.

The state of exception entitles the President of the Republic to take exceptional measures dictated by the safeguard of the independence of the Nation and the institutions of the Republic.

The Parliament meets de jure. The state of exception mentioned above and which led to its proclamation.

**Article 94.** The High Security Council heard, the President of the People's National Assembly and the President of the Council of Nation referred to, the President of the Republic decrees the general mobilization during the meeting of the Cabinet.

**Article 95.** The Cabinet met, the High Security Council heard, the President of the People's National Assembly and the President of the Council of Nation referred to, the President of the Republic declares war in case of effective or impending aggression in accordance with the relevant provisions of the United Nations Charter.

The parliament meets de jure. The President of the Republic addresses a message informing the Nation.

**Article 96.** During the period of the state of war, the Constitution is suspended, the President of the Republic assumes all the powers.

When the mandate of the President of the Republic comes to expiry, it is extended de jure until the end of the war.

In case the President of the Republic resigns or dies or any other impediment, the President of the Council of Nation assumes, as

Head of State and within the same conditions as that of the President of the Republic, all the prerogatives required by the state of war. In case there is a conjunction of the vacancy of the Presidency of the Republic and the Presidency of the Council of Nation, the President of the Constitutional Council assumes, the function of the Head of State within the conditions provided for above.

**Article 97.** The President of the Republic signs armistice agreements and peace treaties.

He receives the opinion of the Constitutional Council on the relevant agreements. He submits the latter immediately to be approved explicitly by each of the two chambers of the Parliament.

## **Chapter II**

### The Legislative Power

**Article 98.** The legislative power is exercised by a parliament, consisting of two chambers, the People's National Assembly and the Council of Nation. The Parliament is sovereign to elaborate and vote the law.

**Article 99.** The parliament controls the action of the Government within the conditions defined by Articles 80, 84, 133 and 134 of the Constitution.

The control, provided for in Articles 135 to 137 of the Constitution, is carried out by the People's National Assembly.

**Article 100.** The Parliament should, within its constitutional attributions, remain faithful to the trust of the people and be permanently aware of their aspirations.

**Article 101.** The members of the People's National Assembly are elected by means of a universal direct and secret suffrage.

Two-thirds (2/3) of the members of the Council of Nation are elected by means of indirect and secret suffrage among and by the

members of the People's Communal Assemblies and the People's Malaya Assembly.

One-third (1/3) of the members of the Council of Nation is designated by the President of the Republic among the national personalities and qualified persons in the scientific, cultural, professional, economic and social fields.

The number of members of the Council of Nation is equal to the half, to the utmost, of the members of the People's National Assembly.

The modes of implementing paragraph 2 above mentioned are defined by the law.

**Article 102.** The People's National Assembly is elected for a period of five (05) years.

The mandate of the Council of Nation is limited to six (06) years.

Half the members of the Council of Nation is renewed every three (03) years.

The mandate of the Parliament cannot be extended unless there are very exceptional circumstances which hinder the normal progress of elections. This situation is ascertained by a decision of the Parliament, sitting in both chambers convened together, following a proposal of the President of the Republic and the Constitutional Council referred to.

**Article 103.** The modes for the election of deputies and those concerning the election or the appointment of members of the Council of Nation, the conditions of eligibility, the rules of ineligibility and incompatibility are defined by an organic law.

**Article 104.** The validation of the mandate of the deputies and that of the members of the Council of Nation comes within the respective competence of each of the two chambers.

**Article 105.** The mandate of the deputy and the member of the Council of Nation is national. It can be renewed and not concurrent with other mandate or function.

**Article 106.** The deputy or the member of the Council of Nation who does not fulfill or does not fulfill any more the conditions of his eligibility incurs the forfeiture of his mandate.

This forfeiture is decided according to the case by the People's National Assembly or the Council of Nation by the majority of their members.

**Article 107.** The deputy or the member of the Council of Nation commits himself before his peers who can revoke his mandate if he commits a shameful action for his mission.

The internal rules of each of the two chambers define the conditions of excluding a deputy or a member of the Council of Nation. The exclusion is decided according to the case by the People's National Assembly or the Council of Nation, by the majority of its members without prejudice to any other common law lawsuits.

**Article 108.** The conditions by which the Parliament accepts the resignation of one of its members are defined by an organic law.

**Article 109.** Parliamentary immunity is recognized to deputies and members of the Council of Nation during the period of their mandate.

They cannot be subject to lawsuits, arrest, or in general, to any civil or penal action or pressure because of opinions they expressed, utterances they made or votes they gave during the exercise of their mandate.

**Article 110.** Lawsuits cannot be instituted against a deputy or a member of the Council of Nation for crime or infringement unless there is an explicit renunciation of the concerned or an authorization according to the case from the People's National

Assembly or the Council of Nation which decides by the majority of its members to lift the immunity.

**Article 111.** In case of flagrant infringement or flagrant crime, the deputy or the member of the Council of Nation may be arrested. The bureau of the People's National Assembly or of the Council of Nation, depending on the case, is informed immediately.

The informed bureau may ask the suspension of lawsuits and the liberation of the deputy or the member of the Council of Nation; it will then be proceeded according to the provisions of Article 110 above mentioned.

**Article 112.** An organic law defines the conditions for the replacement of a deputy or a member of the Council of Nation in case there is vacancy of his seat.

**Article 113.** The term of the legislative body begins de jure the tenth day following the date of the election of the People's National Assembly, under the chairmanship of the oldest member assisted by the two youngest deputies.

The People's National Assembly elects its bureau and forms its committees. The above mentioned provisions are applied to the Council of Nation.

**Article 114.** The President of the People's Assembly is elected for the term of the legislative body. The President of the Council of Nation is elected after each partial renewal of the members of the Council.

**Article 115.** The organization and the functioning of the People's National Assembly and the Council of Nation as well as the functional relations between the chambers of the Parliament and the Government are defined by an organic law.

The budget of the chambers as well as the salaries of the deputies and the members of the Council of Nation are defined by the law.

The People's National Assembly and the Council of Nation elaborate and adopt their internal rules.

**Article 116.** The sittings of the Parliament are public.

The proceedings are recorded in a book and published in accordance with the conditions defined by an organic law.

The People's National Assembly and the Council of Nation may sit in camera upon a request made by their presidents, by the majority of their members present or by the Head of Government.

**Article 117.** The People's National Assembly and the Council of Nation set up permanent committees in the framework of their internal rules.

**Article 118.** The Parliament meets in two ordinary sessions a year, each lasting a minimum period of four (04) months.

The Parliament may hold a meeting in an extraordinary session on the initiative of the President of the Republic.

The President of the Republic can hold a meeting of the Parliament on a request made by the Head of Government or by the two-thirds (2/3) of the members of the People's National Assembly.

The closure of the extraordinary session comes after the Parliament has exhausted the agenda for which it was convened.

**Article 119.** The Head of Government and the deputies have the right to initiate laws.

To be admissible, proposed laws are brought in by twenty (20) deputies.

Draft laws are presented in the Cabinet following the opinion of the Council of State then submitted to the bureau of the People's National Assembly by the Head of Government.

**Article 120.** To be adopted, any draft law or law proposal should be debated successively by the People's National Assembly and the Council of Nation.

The discussion of draft laws or law proposals by the People's National Assembly concerns the text which is presented to it.

The Council of Nation deliberates the text voted by the People's National Assembly and adopts it by the majority of three-quarters (3/4) of its members.

In case there is a disagreement between the two chambers, a committee of equal representation of the two chambers meets on a request of the Head of Government to propose a text on the provisions subject of the disagreement.

This text is submitted by the Head of Government to be adopted by the two chambers and cannot be amended unless with the agreement of the Government.

In case the disagreement persists, the text is withdrawn.

The Parliament adopts the financial law within a period of seventy-five (75) days at the utmost from the date it was submitted in accordance with the preceding paragraphs.

In case it was not adopted in the time limit the President of the Republic promulgates the draft text of the Government by ordinance.

Other procedures are defined by the organic law mentioned in Article 115 of the Constitution.

**Article 121.** Is inadmissible any law proposal which leads to or the subject of which is to reduce public resources or increase public expenses unless it is accompanied by measures aiming at increasing the State income or making, at least, corresponding savings in other items of public expenses.

**Article 122.** The Parliament legislates in the domains which the Constitution assigned to it, as well as the following domains:

- fundamental rights and duties of the individuals, in particular, the rules of public liberties, the safeguard of individual liberties and the obligations of the citizens;
- general rules concerning personal statute and the family status and, in particular, marriage, divorce, affiliation, capacity and inheritance;
- conditions of individual's establishment;
- basic legislation concerning the Nationality;
- general rules related to the condition of the foreigners;
- rules related to the judiciary organization and to the setting up of jurisdictions;
- general rules of penal law and penal procedures; and in particular, the determination of crimes and infringements, the institution of corresponding punishments of any nature, amnesty, extradition and the penitentiary system;
- general rules of civil procedure and execution means;
- rules of civil, trade and property obligations;
- territorial allotment of the country;
- adopting the national plan;
- voting the State budget;
- setting up tax base and rate, contributions and duties of any nature;



- customs regulations;
- money issuing regulations and bank, credit and insurance rules;
- general rules related to teaching and Scientific Research;
- general rules related to public health and population;
- general rules related to work law, social security and to the exercise of trade union right;
- general rules related to environment, living space and land management;
- general rules related to the protection of the fauna and the flora;
- protection and safeguard of cultural and historic heritage;
- general regulation for forests and grazing lands;
- general regulation for water;
- general regulation for mines and hydrocarbons;
- land regulation;
- the fundamental guaranties granted to civil servants and the general statute of civil service;
- general rules related to National Defense and the use of armed forces by civil authorities;
- rules of property transfer from the public sector to the private sector;
- the creation of types of establishments;

- instituting State medals, distinctions and honorific titles.

**Article 123.** In addition to the domains intended to the organic laws by the Constitution, the Parliament legislates through organic laws in the following fields:

- organization and functioning of public powers;
- electoral regulation;
- the law pertaining to political parties;
- the law related to information;
- the statute of magistracy and judiciary organization;
- the outline law of financial laws;
- the law pertaining to national security.

The organic law is adopted by the absolute majority of the deputies and the majority of three-quarters (3/4) of the members of the Council of Nation.

It is submitted to the Constitutional Council for a conformity control before its promulgation.

**Article 124.** The President of the Republic can legislate by ordinance in case there is a vacancy of the People's National Assembly or in the inter-sessions periods of the Parliament.

The President of the Republic submits the texts he enacted to be approved by each of the two chambers of the Parliament in its next session.

The ordinances not adopted by the Parliament are void.

The President of the Republic may legislate by ordinance in case of a state of exception defined by Article 93 of the Constitution.

The ordinances are taken in a meeting of the Cabinet.

**Article 125.** The President of the Republic exercises the powers pertaining to regulations for matters other than those intended to the law.

The implementation of laws is the domain of the Head of Government.

**Article 126.** The law is promulgated by the President of the Republic within thirty (30) days from the date of handing it over.

However, when the Constitutional Council is called upon by one of the authorities mentioned in Article 166 under-mentioned, before the promulgation of the law, this time limit is suspended until the Constitutional Council expresses its opinion in accordance with the conditions defined by Article 167 under mentioned.

**Article 127.** The President of the Republic may request a second reading of the voted law within thirty (30) days following its adoption.

In this case, the majority of two-thirds (2/3) of the deputies of the People's National Assembly is required for the law to be adopted.

**Article 128.** The President of the Republic may address a message to the Parliament.

**Article 129.** The President of the People's National Assembly, the President of the Council of Nation, the Head of Government, referred to, the President of the Republic may decide the dissolution of the People's National Assembly or the Organization of anticipated general elections.

In the two cases, general elections are held within a maximum time limit of three (03) months.

**Article 130.** The Parliament may open a debate on foreign policy upon a request made by the President of the Republic or one of the presidents of the two chambers.

The debate may end up, in that case, with a resolution, of the Parliament sitting in both chambers convened together, which will be sent to the President of the Republic.

**Article 131.** Armistice agreements, peace, alliance and union treaties, treaties related to State borders as well as treaties involving expenses not provided for in the State budget are ratified by the President of the Republic following an explicit approval by each of the chambers of the Parliament.

**Article 132.** Treaties ratified by the President of the Republic in accordance with the conditions provided for by the Constitution are superior to the law.

**Article 133.** Members of the Parliament may call upon the Government on a topical issue.

The committees of the Parliament may hear the members of Government.

**Article 134.** Members of the Parliament may address orally or in a written form any question to any member of the Government.

Answers to written questions should be in written form within a maximum time limit of thirty (30) days.

Answers to oral questions are given in session. If one of the two chambers considers that oral or written answers of a member of the Government justifies a debate, this latter is opened in accordance with the conditions provided for by the rules of procedure of People's National Assembly and the Council of Nation.

The questions and answers are published in accordance with the same conditions as those of the minute of proceedings of the Parliament's debates.

**Article 135.** In debating the general policy declaration, the People's National Assembly may sue the Government's responsibility through voting a motion of censure.

Such a motion is admissible only if it was signed by, at least, one-seventh (1/7) of the number of deputies.

**Article 136.** The motion of censure should be approved by the majority of two-thirds (2/3) of the deputies.

The vote occurs only three days after the motion of censure is brought in.

**Article 137.** If the motion of censure is adopted by the People's National Assembly, the Head of Government submits the resignation of his Government to the President of the Republic.

### **Chapter III**

#### The Judicial Power

**Article 138.** The judicial power is independent. It is exercised within the framework of the law.

**Article 139.** The judicial power protects the society and the liberties. It guarantees, to all and to everyone, the safeguard of their fundamental rights.

**Article 140.** Justice is founded on the principles of lawfulness and equality.

It is the same for all, accessible for all and is expressed by the respect of the law.

**Article 141.** Justice dispensed on behalf of the People.

**Article 142.** Punishments should comply with the principles of lawfulness and individuality.

**Article 143.** Justice deals with appeals against and administrative authorities decisions.

**Article 144.** Justice decisions are justified and pronounced in public hearing.

**Article 145.** All the qualified State bodies should ensure, at any time, in any place and in any circumstances, the execution of justice decisions.

**Article 146.** Justice is pronounced by magistrates. People's assessors in accordance with the conditions defined by the law can assist them.

**Article 147.** The judge obeys to the law only.

**Article 148.** The judge is protected against any foam of pressure, interventions or maneuvers that prejudice his mission or the respect of his free will.

**Article 149.** The magistrate is answerable before the High Council of Magistracy and within the foams prescribed by the law on the way he accomplishes his task.

**Article 150.** The law protects the justiciable against any abuse or deviation the judge.

**Article 151.** The right for defense is recognized.

In penal matters, it is guaranteed.

**Article 152.** The High Court is the regulating body of the activities of the courts and tribunals. A Council of State is instituted as a regulating body of activities of the administrative jurisdictions.

The High Court and the Council of State are responsible for the unification of jurisprudence throughout the country and see to the respect of the law.

A Tribunal of Conflicts is instituted to settle conflicts of competency between the High Court and the Council of State.

**Article 153.** The organization, the functioning and other attributions of the High Court, the Council of State and the Tribunals of Conflicts are defined by an organic law.

**Article 154.** The High Council of Magistracy is presided by the President of the Republic.

**Article 155.** The High Council of Magistracy decides, within the conditions defined by the law, the appointment, transfer and the progress of the magistrate's careers.

It sees to the respect of the provisions provided for the statute of the magistracy and of the control of discipline under the chairmanship of the First President of the High Court.

**Article 156.** The High Council of Magistracy gives a prior consultative opinion to the exercise of the right of free pardon by the President of the Republic.

**Article 157.** An organic law defines the composition, the functioning and the other prerogatives of the High Council of Magistracy.

**Article 158.** A High Court of State is instituted to deal with actions that can be qualified of high treason committed by the President of the Republic, with crimes and infringements committed by the Head of Government during their of office.

An organic law defines the composition, the organization and the functioning of the High Court of State as well as the procedures of implementation.

### **Part III**

#### **Control and Consultative Institutions**

### **Chapter I**

#### **Control**

**Article 159.** The elected assemblies assume the function of control within its popular dimension.

**Article 160.** The Government presents to each chamber of the Parliament a report on the use of budgetary credits which it voted for each financial year.

The financial year is close as far as it concerns the Parliament by a vote, by each of the chambers, of the financial year in question.

**Article 161.** Each of the two chambers of the Parliament may, within the framework of its prerogatives, institute at any time committees investigating affairs of general interest.

**Article 162.** The control institutions and bodies are in charge of checking the conformity of the legislative and executive action with the Constitution and to verify the conditions of use and management of material means and public funds.

**Article 163.** A Constitutional Council is institute to see to the respect of the Constitution. The Constitutional Council sees also to the due form of referendum operations, the election of the President of the Republic and the legislative elections. It proclaims the results of these operations.

**Article 164.** The Constitutional Council is composed of nine (09) members: three (03) appointed by the President of the Republic among whom is the President, two (02) elected by the People's National Assembly, two (02) elected by the Council of Nation, one (01) elected by the Supreme court of Nation, one (01) elected by the Council of state.



Once elected or appointed the members of the Constitutional Council cease any other mandate, function, responsibility or mission.

The President of the Republic appoints the President of the Constitutional Council for a single mandate of six (06) years.

The other members of the Constitutional Council fill a unique mandate of six (06) years and are renewed by half every three (03) years.

**Article 165.** In addition to the prerogatives explicitly bestowed upon it by other provisions of the Constitution, the Constitutional Council pronounces on the constitutionality of treaties, laws and regulations, either through an opinion if these are not enforced or, otherwise, through a decision.

The Constitutional Council, called upon by the President of the Republic, expresses a compulsory opinion on the constitutionality of the organic laws following their adoption by the Parliament.

The Constitutional Council also pronounces on the conformity of the rules of procedures of each of the two chambers of the Parliament with the Constitution accordance with the provisions of the above mentions paragraph.

**Article 166.** The Constitutional Council is called upon by the President of the Republic, the President of the People's National Assembly or by the President of the Council of Nation.

**Article 167.** The Constitutional Council deliberates in camera; its opinion or its decision are given within twenty (20) days following the date it was referred to.

The Constitutional Council defines the rules of its functioning.

**Article 168.** When the Constitutional Council considers that a treaty, an agreement or a convention is not constitutional, its ratification cannot take place.

**Article 169.** When the Constitutional Council considers that a legislative or regulatory provision is not constitutional, this latter loses its effect from the date the decision is taken by the Council.

**Article 170.** An Audit Office is instituted with the task of controlling a posteriori the finances of the State, the territorial collectivities and public services.

The Audit Office establishes a yearly report that is addressed to the President of the Republic.

The law defines the prerogatives, the organization and the functioning of the Audit Office as well as the sanctions of its investigations.

## **Chapter II**

### **Consultative Institutions**

**Article 171.** A High Islamic Council is instituted to the President of the Republic and is trusted, in particular, with:

- encouraging and promoting “Ijtihad”;
- expressing its views in comparison with religious precepts on matters submitted to it;
- presenting a periodic report of activity to the President of the Republic.

**Article 172.** The High Islamic Council is composed of fifteen (15) members, including a president appointed by the President of the Republic among national personalities highly qualified in various fields of science.

**Article 173.** A High Security Council presided by the President of the Republic is instituted. Its task is to express views on all the issues related to national security.

The President of the Republic defines the modes of organization and functioning of the High Security Council.

#### **Part IV**

#### **Constitutional Revision**

**Article 174.** Constitutional revision is decided on the initiative of the President of the Republic. It is voted, in the same manner, in accordance with the same conditions applied to a legislative text by the People's National Assembly and the Council of Nation.

It is submitted to a referendum to be approved by the People within fifty (50) days following its adoption.

The President of the Republic promulgates the Constitutional revision, approved by the People.

**Article 175.** The law pertaining to the draft constitutional revision not approved by the People is void. It cannot be submitted again to the People during the same legislature.

**Article 176.** When the Constitutional Council considers that the draft constitutional revision does not infringe, at all, upon the general principles governing the Algerian society, the human and citizen's rights and liberties, or does not affect, in any way, the fundamental balance of powers and of institutions, the President of the Republic may promulgate, directly, the law pertaining to constitutional revision without submitting it to People's referendum if it obtains the voices of three-quarters (3/4) of the members of the two chambers of the Parliament.

**Article 177.** The three-quarters (3/4) of the members of the two chambers of the Parliament meeting together can propose a constitutional revision and present it to the President of the Republic who can submit it to a referendum.

If approved, it is promulgated.

**Article 178.** Any constitutional revision cannot infringe on:

- the republican nature of the State;
- the democratic order based on multiparty system;
- Islam as the religion of the State;
- Arabic as the national and official language;
- fundamental liberties, and citizen's rights;
- integrity of the national territory.

### **Transitional Provisions**

**Article 179.** The legislative body in office at the date of the promulgation of the present Constitution and up to the end of its mandate, the President of the Republic at the end of the legislative body's mandate and up to the election of the People's National Assembly, legislate through ordinances including the domains pertaining to organic laws.

**Article 180.** Awaiting the setting up of the institutions provided for in the present Constitution:

- the laws in force pertaining to the organic domain remain applicable up to their replacement or modification in accordance with the procedures provided for by the Constitution;
- the Constitutional Council, with its present representation, assumes the prerogatives bestowed upon it by the present Constitution up to the time of setting up institutions represented in its midst. Any modification or addition should be subject to Article 164 (paragraph 3) of the present Constitution, resorting, if necessary, to drawing lots;
- the elected People's National Assembly will assume full legislative power until the Council of Nation is set up;

However the President of the Republic may delay the promulgation of the laws adopted by the deputies until their adoption by the Council of Nation.

**Article 181.** The renewal of half (1/2) the members of the Council of Nation during the first mandate is carried out at the end of the third year by drawing lots. Members of the Council of Nation are replaced by drawing lots in the same conditions and following the same procedure of their election or appointment. However, drawing lots does not concern the President of the Council of Nation who assumes the first mandate of six (06) years.

**Article 182.** The President of the Republic promulgates the constitutional revision text approved by the people and which will be carried out as the fundamental law of the Republic.