

Electoral List Oversight Under Decree 21/01 Regarding the Organic Election Law

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Abstract:

This study addresses the topic of oversight on electoral lists in light of Decree 21/01 related to the Organic Election Law. It tackles a key issue: Does the electoral legislator, in its legal organization, enable effective oversight of electoral lists? The study examines the concept, characteristics, preparation, and review of electoral lists. It also explores oversight of the registration process in electoral lists, considering it a fundamental matter for ensuring their integrity and safeguarding against any legal violations. This oversight is granted to citizens, independent of political parties, through various legal mechanisms within the framework of administrative and judicial control. The analytical approach is employed to analyze legal texts related to electoral lists and their oversight. The study concludes that the legal provisions for oversight on electoral lists are insufficient. Effective oversight requires active participation from the citizen-voter, who plays a crucial role in this stage. Furthermore, there is a need to raise awareness among citizens about the importance of their role in protecting electoral lists from manipulation and forgery.

key words: Electoral Lists, Citizen-Voter, Administrative Oversight, Judicial Oversight, Political Parties.

INTRODUCTION:

Elections are a crucial requirement for achieving democracy, serving as a framework for political competition through various discourses, programs, and different propositions. From a legal perspective, elections constitute a complex process that spans over time, starting with registration on electoral lists and concluding with the announcement of final results, encompassing election campaigns, voting processes, and appeals.

The electoral process begins with the preliminary stage, which includes many operations no less important than subsequent stages. Any malfunction in this stage affects the later electoral phases. The preparation of electoral lists and their registration is considered the key link in the preliminary stage, as registration signifies the individual's right to vote. The preparation and review of electoral lists are among the initial stages preceding the voting process, highlighting their significance in influencing the accuracy of electoral lists, which in turn reflects on the final election results.

To ensure the smooth progress of this stage, the Organic Election Law, issued under Decree 21/01, introduces new legal provisions specifying the competent authority for preparing these lists, the registration process, their review, announcement, and subjecting them to administrative and judicial oversight.

The oversight of electoral lists is a fundamental matter to ensure their integrity and protection against any legal violations. The citizen-voter plays a crucial role in overseeing electoral lists, independent of political parties, which are not granted any regulatory role by the 2021 Organic Election Law. The citizen-voter benefits from multiple effective legal mechanisms for monitoring within the framework of administrative and judicial control.

In this context, addressing the issue at hand raises the following question:

Does the electoral legislator, in its organization, enable oversight of electoral lists?

To answer this question, we will attempt to address the topic by focusing on two axes. The first axis explores the conceptual framework of electoral lists, while the second axis is dedicated to the oversight of the registration process in electoral lists.

THE FIRST TOPIC: CONCEPTUAL FRAMEWORK OF ELECTORAL LISTS

Electoral lists constitute an official compilation of records containing the names of citizens who meet the conditions stipulated in the constitution and election law. Once a citizen's name is registered on the electoral list, they acquire the status of a voter¹. Registration in the electoral lists is a fundamental requirement for voting. Even if a voter meets other objective conditions, they cannot cast their vote unless they are registered. Moreover, registration is a necessary condition for exercising the right to candidacy.

The Algerian legislator considers registration in the electoral list a duty for every eligible citizen, as per Article 54 of Decree 21/01². This decree imposes the obligation to claim registration on the electoral list, according to Article 55.

Before delving into the details of registration in the electoral list and its conditions, it is essential to first define the electoral list, discuss its significance, characteristics, and how it is compiled and reviewed under Decree 21/01 related to elections.

FIRST REQUIREMENT: DEFINITION OF THE ELECTORAL LIST AND ITS SIGNIFICANCE

The Algerian legislator, through Decree 21/01 related to the Organic Election Law, did not explicitly define the concept of the electoral list. Instead, it focused on mentioning the conditions for registration, how to prepare and review it. Therefore, we will attempt to present some legal definitions, including: "The record that includes the names of voters in alphabetical order and is always for the registered voters in the municipality. It is used for all elections and is subject to annual renewal³." It is also defined as: "Registers of voters containing officially compiled lists of citizens who meet the conditions required by the law for membership in the body of voters."⁴

Thus, electoral lists can be described as documents that list voters, arranging their names alphabetically and including all relevant information such as personal and family names, date of

1- Saleh Hussein Ali Abdullah, *The Right to Vote*, The Modern University Office, Alexandria, Egypt, 2013, p. 29.

2- Decree 21/01, encompassing the Organic Election Law, dated 26 Rajab 1442 corresponding to March 10, 2021, Issue 17, issued on March 10, 2021.

3- Ahmed Saifan, *Political Systems and General Constitutional Principles*, Aleppo Legal Publications, 1st edition, Lebanon, 2008, p. 267.

4- Souad Al-Sharqawi, Abdullah Nassef, *Election Systems Worldwide and in Egypt*, 3rd edition, Dar Al-Nahda Al-Arabiya, Egypt, 1994, p. 282.

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birth, place of residence or domicile in the electoral district. Consequently, electoral lists represent conclusive evidence on election day for acquiring the status of a voter, and it is not permissible to prove the opposite of what is stated in them.

Electoral lists are of great importance in determining the body of voters and facilitating the electoral process. This importance is reflected in the following aspects¹:

- Electoral lists regulate the body of voters, which has the authority to oversee deputies, and it is the entity to which disputes arising between official authorities in the state are referred.
- They serve as tangible evidence that the voter meets the objective conditions to exercise the right to vote.
- Facilitating electoral procedures by assisting in the distribution of voters to polling stations according to the general census of the number of voters.
- Revealing double registration for voters who intend to vote more than once, thereby preventing fraud on the one hand and ensuring equality among voters on the other.
- Serving as a database used to determine the necessary statistics and information related to the electoral process.

SECOND REQUIREMENT: CHARACTERISTICS OF THE ELECTORAL LIST

Electoral lists possess a set of characteristics summarized as follows:

Firstly: Universality of Electoral Lists

Since electoral tables are nothing more than lists containing citizens who have the right to vote, they are valid for all elections with a political nature, such as legislative and local elections. Through these lists, it can be proven that the person casting their vote at the polling station meets the conditions required by law to exercise the right to vote. Practically, it is not possible to verify or prove the fulfillment of these conditions for each voter individually on the day of voting. To overcome this difficulty, electoral lists were created, including or containing the names of all citizens who meet the participation conditions.

Secondly: Comprehensive Electoral Lists

Electoral lists are complete and comprehensive, including all eligible voters². The task of preparing electoral lists is not limited to a specific election or referendum but must be made usable for all elections and general referendums. This ensures the unity of the list, and electoral legislations are keen on establishing regulations to prevent manipulation by any administrative entity in these lists, considering them as the cornerstone in building the electoral system. This is achieved by deleting the names of those eligible for registration or adding names that do not meet the registration conditions, aiming to eliminate the phenomenon of multiple votes or the waste of a significant number of votes, negatively affecting the seriousness and integrity of the electoral process.

Thirdly: Stable and Continuously Revised Electoral Lists

Electoral lists are not subject to modification as a general rule, except during a specific period each year. However, there are exceptions to this rule, as demographic changes may occur

1- Sabih Wahhab Hasan Al-Sabbah Al-Attawani, Judicial Oversight of Electoral Lists, a Comparative Study, Ahl Al-Bayt Journal, Issue 26, released in April 2020, Iraq, p. 242.

2- Abdou Saad, Ali Maqlad, Essam Nama Ismail, "Electoral Systems - A Study on the Relationship between the Political System and the Electoral System," Halabi Legal Publications for Publishing, First Edition, Beirut, Lebanon, 2005, p. 74.

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where some voters reach the voting age, while others pass away or become ineligible due to their characteristics or personal traits. Algerian electoral laws stipulate that electoral lists are permanent and subject to continuous revision during the last quarter of each year and on the occasion of calling voters to participate in elections.

THIRD REQUIREMENT: PREPARATION AND REVISION OF ELECTORAL LISTS

The process of preparing and revising electoral lists is the means through which a citizen who meets the eligibility criteria can exercise their electoral rights, whether the individual resides in Algeria or abroad.

Firstly: Conditions for Registration in the Electoral List

The registration process in the electoral lists is the first stage in the preparation of electoral lists and is also referred to as the process of enrollment in the electoral tables. This process is linked to a set of conditions specified in Order 21-01 regarding the electoral system, including:

1- Citizenship Requirement:

The citizenship requirement establishes the link between the right to vote and citizenship¹. According to Article 50 of Order 21-01, "Every Algerian man and woman is considered a voter," emphasizing equality between those with original and acquired citizenship².

2- Age Requirement:

The Algerian legislator set the legal voting age and required individuals to be at least 18 years old on the day of voting. This reduces the age of political maturity to 18, distinct from the civil maturity set at 19 years³, aiming to expand the electorate in Algeria.

3- Eligibility for Moral and Mental Competence:

To acquire membership in the electoral participation body and enjoy the right to vote, a citizen must be free from any impediment to voting. This includes eligibility for moral competence⁴, ensuring that the person has not committed crimes that make them unworthy of honor and consideration⁵. The individual should not have engaged in criminal acts that question their suitability for participating in the administration of state affairs. The legislator defined cases considered as obstacles to registration in the electoral list in Article 52 of Order 21/01 related to elections, including:

- Anyone who adopted behavior against the interests of the nation during the National Liberation Revolution.
- Anyone convicted of a crime without having their consideration restored.

1- Al-Amin Sharit, Concise in Comparative Constitutional Law and Political Institutions, University Press, 7th Edition, Algeria, 2011, p. 291.

2- Article 15 of Order 70-86, dated December 15, 1970, concerning Algerian nationality law, Official Journal, No. 105, dated December 15, 1970, amended and supplemented by Order No. 05-01, dated February 27, 2005, Official Journal, No. 15, dated February 27, 2005.

3- Article 50 of Order 21-01, including the Organic Law on Elections, from the previous source.

4- Dawood Al-Baz, Right to Participation in Political Life, Analytical Study of Article 62 of the Egyptian Constitution in Comparison with the French System, University Thought Press, Alexandria, Egypt, 2006, pp. 185-186.

5 - Mohamed Farghaly Mohamed Ali, Systems and Procedures for Electing Members of Local Councils in Light of Jurisprudence and Law, Dar Al-Nahda Al-Arabiya, Cairo, Egypt, 1998, p. 168.

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- Anyone convicted of an offense with a penalty of imprisonment and disenfranchisement for a specified period, in accordance with Articles 9 (repeated 1) and 14 of the Penal Code.

Additionally, individuals must have mental competence, meaning they should not be suffering from mental illnesses that affect their mental abilities, impair their decision-making and discriminatory capacities, and render them unaware of the decisions and actions they undertake¹. Lack of mental competence includes persons judicially detained or placed under guardianship².

4- Electoral Resident:

The Algerian legislator did not provide a definition for the electoral resident in the laws related to elections but referred to the concept of residency in civil law in Article 36 thereof. According to Article 51 of Order No. 21-01³, it states that only those registered in the electoral list of the municipality in which they are residents have the right to vote. This is to avoid repeated registrations in various municipal electoral lists for individuals with multiple addresses. For those with multiple places of residence, they are obligated to choose one electoral residence where they exercise their right to vote, ensuring the balance in the number of voters among different districts and the principle of equality among citizens in exercising the right to vote⁴.

Secondly: Authority Responsible for Preparing and Reviewing Electoral Lists

The process of preparing and reviewing electoral lists is of great importance in organizing the electoral process, as it makes the electoral lists ready for any voting process. These lists contain the names of all citizens who meet the qualifications required by the law for registration⁵. The Algerian legislator has entrusted the Independent Authority with the responsibility of holding the national identity card for the electoral body and regularly reviewing the electoral lists.

The preparation and review of electoral lists are assigned to a committee called the Electoral Committee for the Review of Electoral Lists for residents in Algeria and another for residents abroad. We will discuss both in terms of their composition and then outline the procedures for organizing the review of electoral lists as follows:

1- Composition of the Authority Responsible for Preparing and Reviewing Electoral Lists

The Algerian legislator has assigned the task of preparing and reviewing electoral lists to a committee called the Electoral Committee for the Review of Electoral Lists for residents in Algeria and another for residents abroad.

a- Composition of the Municipal Committee for the Review of Electoral Lists for Residents in Algeria:

According to Article 63 of Order 21/01, which includes the Organic Law for Elections, the Algerian legislator has granted the authority to prepare and review electoral lists for citizens residing in Algeria to a municipal committee for the review of electoral lists at the level of each municipality. This committee operates under the supervision of the Independent Authority and consists of:

1- Ibid, p. 167.

2- Boukern Tawfiq, Constitutional and Legal Guarantees for the Integrity of the Registration Process in Electoral Lists in Algeria, Journal of Social Sciences, Volume 15, Number 28, 2018, p. 346.

3- Article 51 of Order No. 21-01, including the Organic Law on Elections, from the previous source.

4- Boukern Tawfiq, op. cit., p. 346.

5- Abbasi, Saham, "The Legal Organization of the Registration Process in Electoral Lists in Algeria," Ph.D. thesis, Batna University, 2018/2019, p. 128.

- **Committee Chairman:** A judge appointed by the president of the relevant regional council.
- **Three citizens from the municipality:** Selected by the Wilaya Delegation of the Independent Authority from among registered voters in the electoral list of the concerned municipality¹. The legislator has placed a municipal employee at the disposal of the committee, who serves as a permanent secretary, provided that the individual has experience, competence, and neutrality.

b- Composition of the Committee for Reviewing Electoral Lists for Residents Abroad:

The Algerian legislator has taken an interest in the expatriate community and has not deprived them of their political rights. A committee has been established to review electoral lists with a composition different from the committee for citizens residing in Algeria. It consists of:

- Head of the diplomatic mission or head of the consular center or their representative as the committee chairman.
- Two voters registered in the electoral list of the diplomatic or consular district appointed by the Independent Authority.
- Consular employee as a committee member. The committee appoints its secretary from among its members².

Thirdly: Procedures for Organizing and Reviewing Electoral Lists

The process of reviewing electoral lists is of great importance, prompting the election legislator to establish procedures and timelines for their review, with the presence of a committee overseeing both regular and exceptional reviews.

1- Regular Review of Electoral Lists:

The annual review of electoral lists, known as the regular review, is announced by the head of the independent authority, both its commencement and conclusion, through appropriate means³. The regular review takes place during the last quarter of each year, starting from the first of October. The municipal committee is responsible for the review, adhering to the legislator's specified timeframe, which serves as the closing period for registration in these electoral lists. Designating a three-month review period adds credibility to the accuracy of the electoral lists by allowing sufficient time for the review process⁴.

Regarding the powers of the municipal committee during this stage⁵:

- Monitoring the conditions for reviewing electoral lists concerning municipal, diplomatic, or consular voters and striking off names.
- Compiling a schedule that includes the names, titles, birthdates, and residences of new registrants and deletions.
- Deciding on registration or deletion requests from the electoral list and preparing a corrective schedule.
- Depositing electronic copies of the electoral lists at the level of the court's registry within the relevant jurisdiction and at the level of the independent authority's regional delegate

1- Article 63 of Order 21-01, which includes the Organic Law for Elections.

2- Ibid.

3- Ibid.

4- Abbasi Saham, op. cit., p. 136.

5- Boulqwas Yosra, "The Role of the Judiciary in the Electoral Process," Doctoral Thesis, Faculty of Law and Political Science, University of Batna, 2021/2022, p. 95.

and diplomatic or consular representations. The municipal committee secretary is responsible for depositing a paper copy of the electoral lists with the regional delegate, who, in turn, deposits a copy with the independent authority¹.

2- Exceptional Review:

This is a non-mandatory review conducted outside the regular review period, with an exception to the general rule that no amendments can be made to the electoral lists outside the regular review period. The exceptional review is carried out based on a presidential decree related to the summoning of the electorate, specifying the timeframe for the exceptional review². The same procedures as the regular review apply for registration and deletion during this process.

THE SECOND TOPIC: OVERSIGHT OF THE VOTER REGISTRATION PROCESS

There is no electoral process without the presence of both the voter and the candidate. This realization is only possible through the preparation of lists created for this purpose. The development of these lists cannot occur in the absence of effective legal safeguards, with one of the most crucial being the endorsement of judicial oversight over the decisions of the committees responsible for this process. The effectiveness of this oversight depends on the fulfillment of a set of conditions and regulations, which the legislator has specifically addressed with legal provisions that reflect the specificity of this type of scrutiny. To understand this, this axis is divided into three elements: the right of political parties to access the lists without administrative or judicial challenge (first), administrative oversight of electoral lists (second), and the judicial oversight of the electoral lists by ordinary judges (third). All of this is detailed below.

FIRST REQUIREMENT: THE RIGHT OF POLITICAL PARTIES TO OBTAIN A COPY OF THE LISTS WITHOUT ADMINISTRATIVE OR JUDICIAL CHALLENGE

To reinforce the guarantees of maintaining the integrity of the electoral process in all its stages, including the voter registration stage, the electoral legislator stipulates that political parties have the right to obtain a copy of the electoral list for each electoral event. This is explicitly stated in Article 70 of Order 21/01, which reads: "The independent authority is committed to providing the municipal or diplomatic electoral list on the occasion of each election to qualified representatives of political parties participating in the elections and independent candidates, without compromising data of a personal nature." The last paragraph of Article 70 refers to the application of this article through a decision by the head of the independent authority, which is published in the official gazette of the People's Democratic Republic of Algeria. This decision specifies the guidelines and procedures for granting the list by the coordinator of the wilaya delegation of the independent authority.

Based on the above, the electoral legislator did not grant political parties the right to file administrative appeals against the electoral lists. This implies that making the lists available to

1- Articles 11/14/17 of Decision No. 15 issued by the National Independent Electoral Authority on November 13, 2022.

2- Article 62, paragraph 2, of Order 21/01, encompassing the Organic Law on Elections, op. cit.

political parties is not meaningful, rendering the efforts of parties in scrutinizing these lists futile. This weakens their oversight role and renders legal provisions meaningless, stripping them of their purpose¹.

Given this legal gap, political parties, based on their experience, resort to indirect challenges against the electoral lists by their activists registered on the list, who discover errors, mistakes, or violations.

SECOND REQUIREMENT: ADMINISTRATIVE OVERSIGHT OF ELECTORAL LISTS

Decisions issued by the municipal committee for the review of electoral lists are subject to administrative appeals. The legislator has provided specific procedures and deadlines for these appeals, which differ from those established for other appeals against administrative decisions.

Firstly: Administrative Appeal Before the Municipal Committee for the Review of Electoral Lists

Administrative appeal involves an interested party challenging an administrative decision issued against them. They request the administrative authority that issued the decision, or the authority above it, to review, modify, withdraw, or annul the decision due to the harm caused. According to Order 21/01, the Algerian legislator allows voters to object to the contents of the electoral list to ensure equality in registration, as specified in the electoral law. The law outlines the parties and cases that can be appealed or objected to before the municipal committee for the review of electoral lists in two situations:

- Any citizen omitted from the electoral list has the right to appeal. This is done by submitting a request to the head of the municipal committee for the review of electoral lists within the forms and deadlines stipulated in the Organic Law on Elections for the year 2021.
- Any citizen registered in one of the electoral district lists has the right to submit a reasoned objection to remove an improperly registered person or to register a person omitted in the same district. This is also within the stipulated forms and deadlines in the Organic Law on Elections².

It is worth noting that the electoral legislator did not specify how objections should be submitted or the procedures to be followed³. The legislator only emphasized the necessity of providing reasons for objections before the municipal committee for the review of electoral lists. The requirement for the objector to justify their administrative appeal in the electoral registration process places the burden of proving the absence of the legally required conditions on the objector concerning the registration or removal of any voter from the electoral lists⁴.

Secondly: Deadlines for Objections and Adjudication:

The legislator mandated the submission of complaints or objections to registration or removal within a maximum period of ten (10) days from the date of suspending the conclusion of the regular review of electoral lists. This period is reduced to five (5) days in the case of

1- Boukern Tawfiq, op. cit., p. 80.

2- Article 67, of Order 21/01, encompassing the Organic Law on Elections.

3- Smaine Labbadi, Electoral Disputes: A Comparative Study of the Algerian and French Experiences in Presidential and Legislative Elections, Doctoral Thesis for the Degree of Doctor of Law, Faculty of Law, Mohammed Khider University, Biskra, 2012, P. 40.

4- Ibid, p. 37.

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exceptional review. Linking the deadlines for submitting administrative appeals in the registration process to the electoral lists with the announcement of concluding the preparation and review of these lists may also undermine the voter's right to file administrative appeals in the registration process. To avoid this, it is believed that it is better to stipulate counting the deadlines for appeals from the date the electoral lists are displayed for inspection, rather than the date of announcing the conclusion of the registration process.

These appeals are then referred to the municipal committee for the review of electoral lists to decide within a maximum period of three (3) days. The head of the municipal committee for the review of electoral lists, or the head of the diplomatic or consular representation, is also obligated to notify the decision of the administrative committee to the concerned parties within a maximum period of three (3) days¹, without specifying a particular means of notification, making all legal means available². The notification must be in writing and to the concerned individuals only.

It is noteworthy that the electoral legislator did not establish a separate committee to adjudicate citizens' complaints and objections about the accuracy of the electoral lists. Instead, this responsibility was delegated to the municipal committee for the review of electoral lists itself³. Consequently, objections and appeals against the committee's decision resemble regional appeals since they are raised before the same authority that issued the decision⁴. The legislator took this direction considering that this committee is chaired by a judge, allowing for the resolution of objections in accordance with the law without bias due to the qualifications and independence enjoyed by the judge⁵.

Finally, after the municipal committee for the review of electoral lists issues its decision, it must reconfigure the correction table. This table includes the list of new registered voters and those removed, detailing titles, names, dates of birth, locations, and addresses. The table is then suspended by the municipal delegate and the coordinator of the delegation at the level of the diplomatic representation or consular office of the Independent Authority for Elections within 24 hours following the electoral committee's decision⁶.

Thirdly: Judicial Oversight by Ordinary Courts for Electoral Lists

In addition to the recognized right for individuals to raise administrative disputes before the committees responsible for reviewing electoral lists, the right to resort to the judiciary and contest the decisions of the committees remains valid and constitutionally recognized before being legally sanctioned. This is because the judiciary is the protector of rights, public freedoms, including the right to vote⁷.

1- Article 68/4 of Order 21/01, encompassing the Organic Law on Elections.

2- Shoqi Yaish Tamam, Appeals in Parliamentary Elections in the Maghreb Countries (Algeria), Tunisia, Morocco, Doctoral Thesis, Mohammed Khider University, Biskra, Algeria, 2013-2014, Page 113.

3- Hamoudi Mohamed Ben Hashemi, Legal Guarantees for the Right to Vote in Algeria, Unpublished Doctoral Thesis in Legal Sciences, Faculty of Law and Political Science, Abu Bakr Belkaid University, Tlemcen, Algeria, 2015/2016, Page 157.

4- Shoqi Yaish Tamam, op. cit., p. 110.

5- Faysal Ben Zehaf, Judicial Oversight of the Electoral Process as a Guarantee for Democratic Legitimacy, Journal of Law, Society, and Power, University of Oran, Volume 8, Number 01, 2019, Page 263.

6- Elyas Jawadi, Shoqi Yaish Tamam, Mechanisms for Resolving Disputes in the Preparatory Processes for Legislative Elections in Light of the Developments of the Provisions of Order 21/01, the Organic Law on Elections, International Journal of Legal and Political Research, Issue 1, 2021, Page 65.

7- Article 164 of the 2020 Constitutional Amendment states: "The judiciary protects society and the freedoms and rights of citizens in accordance with the constitution." Additionally, Article 168 states: "The judiciary reviews the decisions of administrative authorities."

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The Algerian legislator's stance has fluctuated in assigning the jurisdiction to adjudicate disputes related to registration and deletion in electoral lists to the ordinary judiciary. However, this jurisdiction was not explicitly and categorically clarified except under Order 21-01 when specifying the jurisdiction of the regional ordinary judiciary and the court affiliated with the ordinary judicial system in Algiers for the expatriate community. This was stipulated in Article 69, Paragraph 3 of Order 21/01 related to elections.

1- Appeal before the Ordinary Judge

Judicial appeals are made before the competent judicial authorities against decisions issued by the Municipal Committee for the Review of Electoral Lists. These appeals may include the annulment or modification of the decision issued by the Municipal Committee responsible for reviewing electoral lists. Judicial appeals have very short deadlines, considering the specific nature of the dispute and the time factor, given the practical speed required in any stage of the electoral process.

a- Appeal before the Regionally Competent Court:

The Algerian legislator granted individuals the right to resort to the judiciary in disputes related to registration in electoral lists and contest decisions of the Municipal Committee for the Review of Electoral Lists, whether at the national level or abroad. This right is constitutionally stipulated since the judiciary is the protector of rights, including the right to vote, as provided in Article 164 of the 2020 Constitutional Amendment¹.

Disputes arising in the preparation and review of electoral lists are related to the objection of the concerned party to the decision of the Municipal Committee for the Review of Electoral Lists, concerning the rejection of amendments or the unlawful registration in the electoral lists. The parties concerned refer to those objecting or filing complaints with the Municipal Committee for the Review of Electoral Lists. The appeal is made before the court affiliated with the ordinary judicial system, regionally competent or the court of Algiers for the Algerian expatriate community. This is explicitly stated in paragraph 03 of Article 69 of Order 21-01, clarifying the jurisdiction of the ordinary judiciary that was previously ambiguous in earlier laws, merely mentioning the competent regional court without specifying the competent authority.

Despite this explicit provision specifying the jurisdiction of the ordinary judiciary to adjudicate disputes related to registration in electoral lists due to issues related to eligibility, age, and residency, some argue the opposite. They suggest that the competent authority for electoral list disputes should be the administratively competent administrative court regionally. This argument is based on the assertion that it is a genuine administrative dispute because when the administrative quality is present, the Municipal Committee for the Review of Electoral Lists issues administrative decisions, and its work is purely administrative. Therefore, there is no objection to the administrative judge having jurisdiction over disputes related to registration in electoral lists².

b- Conditions stipulated for parties to initiate judicial appeals:

The presence of both the condition of locus standi (legal standing) and interest is considered among the most important conditions that allow for the initiation of private electoral disputes. Referring here to what is established in the Law of Civil and Administrative

1- Article 164 of the 2020 Constitutional Amendment stipulates: "The judiciary protects society and the freedoms of citizens in accordance with the constitution. The judiciary also reviews appeals against decisions of administrative authorities".

2- Elyas Jawadi, Shoqi Yaish Tamam, Op.Cit., Page 67.

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Procedures, which explicitly states that no person may litigate unless they have a standing and a current or potential interest recognized by the law. The judge takes it upon himself to indicate automatically the absence of the required standing, whether it concerns the plaintiff or the defendant¹.

The electoral legislator in Order 21/01, which includes the Organic Law on Elections, has shortened the procedure for appealing one's registration without specifying whether the concerned parties must have an interest and standing in filing the appeal or not². Despite the fact that some argue that the electoral legislator does not explicitly require the presence of the interest and standing conditions, as outlined in Article 69 of Order 21/01 regarding appeals related to the registration process in electoral lists. This is considered an exception to the conditions for filing a lawsuit according to their opinion. However, it can be argued that the requirement for the voter to be registered in the electoral list gives them an interest in appealing the registration in these lists, which is not considered an exception but rather a specific condition for filing a lawsuit in this regard³.

The standing of the plaintiff in relation to appeals presented before the regular judiciary is restricted to being among those with the right to file administrative appeals related to the registration process in the electoral lists. This is because they initially engage in the exercise of administrative appeals before the Administrative Committee for the Review of Electoral Lists⁴.

The term "concerned parties," as referred to by the electoral legislator in Article 69 of Order 21/01 regarding elections, means the person who disputes their own registration and/or the person who disputes the registration of another. In short, the term "concerned parties" is used to avoid repetition, especially since judicial appeals are based on decisions issued by the committees against the mentioned parties. This is a correct approach by the Algerian legislator, who maintained the same parties with the right to administrative appeals.

c- Judicial Appeal Procedures

Article 69 of Order No. 01-21, which includes the organic law related to the electoral system, stipulates the following: "Concerned parties can file an appeal within a full period of five (5) days starting from the date of notification of the decision⁵.

In case of non-notification, the appeal can be filed within a period of eight (8) full days, starting from the date of objection. This appeal is recorded by simply declaring it to the Court Registry of the judiciary regionally competent, or the court affiliated with the ordinary judicial system in Algiers for the Algerian community residing abroad. The court issues a judgment within a maximum period of five (5) days without procedural expenses and without the obligation to appoint a lawyer, based on a general notice sent to the concerned parties three (3) days before. The court's judgment is not subject to any form of appeal."

For a petition appealing the dispute in the electoral registration process, the legislator did not specify a particular form. It suffices that this appeal is recorded by simply declaring it to the Court Registry, and it can be either written or oral. The appellant, who disputes the validity of the electoral registration process, is not obliged to follow the general rules and principles

1- Article 13 of Law 08/09 dated 25/02/2008, which includes the Law of Civil and Administrative Procedures, Journal of Laws, No. 21, 2008.

2- Article 69, Paragraph 1 of Order 21/01, which includes the Organic Law on Elections

3- Boulqwas Yosra, op.cit., p. 184.

4- Abbasi, Saham, op.cit., p. 253.

5- Article 69, op.cit.

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applicable in the field of civil and administrative procedural law¹, requiring the filing of a written and signed judicial petition submitted to the Court Registry by the plaintiff, their representative, or their lawyer with a number of copies equal to the number of parties².

As for the procedures for the resolution, ordinary jurisdiction has been granted authority in the decisions of municipal committees for the review of electoral lists within an estimated period of five (5) days. This indicates that the legislator did not refer the appeal review procedures and the final judgment to the general rules applicable in the field of litigation before ordinary courts. However, this does not negate the nature of the litigation procedures that should be as a general rule, written procedures according to what the legislator did not specify in the Law of Civil and Administrative Procedures. In addition, the legislator stipulates that during the lawsuit, the presiding judge must appoint the designated judge to determine, based on the case, the deadline given to the adversarial parties for submitting additional memoranda, observations, defenses, and responses³.

From the above, we find that the electoral legislator shortened the appeal period to five (5) days and simplified the dispute procedures in the electoral lists stage. This is in line with the urgent nature of the electoral process. However, this period is explicitly short compared to the significance and seriousness of the electoral registration process and its impact on subsequent stages, especially the candidacy stage as a second step in the preparatory stage. This necessitates or recommends extending the appeal period to a duration ranging from 10 to 15 days to provide the judge with sufficient time to adjudicate the judicial appeal and achieve justice in the issued judicial decisions⁴.

Regarding the statement that the judgment of the ordinary court is not subject to any form of appeal, this contradicts one of the fundamental principles that the judiciary is based on, which is the principle of litigation on two levels. This principle was established by the constitutional legislator in the recent amendment of 2020 in Article 165, which states: "The judiciary is based on the principles of legitimacy and equality. The judiciary is accessible to all. The law ensures litigation on two levels and determines its conditions and application procedures."⁵

The evidence on which this period is based is something the voter relies on, and the short duration makes it difficult for them to use this right for a longer period to allow them to collect evidence before the administration or the judicial authority later on. In this regard, Dr. Masoud Shihub argues that this period is insufficient for the voter to discover the illegitimacy of the election and gather their evidence.

d- Legal Consequences of Judicial Appeals

The Algerian legislator has set balanced deadlines for electoral appeals, considering both the interests of the appellant in challenging the decision affecting their interest and the public interest in maintaining the legal positions established by this decision related to the electoral process. If the specified period for filing an appeal elapses, the following outcomes occur:

- In case the appeal is accepted, and a judicial decision is issued in favor of the appellant, the judge has the authority to issue an order to the entity responsible for registration,

1- Boulqwas Yosra, "Registration Procedures in the Electoral List under Order 21/01," Journal of Legal and Economic Studies, Issue 1, 2021, p. 13.

2- Elyas Jawadi, Shoqi Yaish Tamam, Op.Cit., Page 66.

3- Boulqwas Yosra, The Role of the Judiciary in the Electoral Process, Op.Cit., Page 185.

4- Elyas Jawadi, Shoqi Yaish Tamam, Op.Cit., Page 66.

5- Organic Law No. 04-11, dated September 6, 2004, includes the Fundamental Law of the Judiciary, Official Gazette No. 57 of the year 2004.

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compelling it to either register the individual or remove them. The independent authority must comply with the judge's order. However, this does not imply that the judge replaces the independent authority in carrying out tasks within its jurisdiction or performs actions it refused to undertake.

- In case the claim is not accepted, and the specified deadline has expired, this leads to the forfeiture of the right to the lawsuit. Any lawsuit conflicting with this is formally rejected at any stage of the lawsuit. Additionally, an appeal may be rejected on substantive grounds if it lacks sufficient grounds and arguments. This indicates that the appellant's request is not worthy of approval, and the decision of the municipal committee is considered correct in the eyes of the judge.

The legislator in the Electoral Law No. 21/01 specifies that the judgment issued by the competent court regarding electoral registration is not subject to any form of appeal. It is inferred from this approach that it is not subject to appeal, especially if we consider that it is a decision in favor of the defendant who was absent from the adversarial proceedings initiated by the plaintiff. On the other hand, the judgment issued by the court is not subject to appeal, meaning it is a final and primary judgment. This is based on the principle that litigation is based on two levels unless the law states otherwise.

Moreover, the legislator denies the appellant the important principle of litigation on two levels, especially if it becomes clear that hearing the case at one level may not achieve the principle of judicial justice.

CONCLUSION:

Through the study of this topic, we have arrived at a set of results and recommendations, which we summarize as follows:

Results:

- The legislator established two types of committees responsible for the registration process in the electoral lists: the Municipal Committee for Reviewing Electoral Lists for citizens residing in Algeria and a committee for reviewing electoral lists for citizens residing abroad. Substantial amendments were introduced to their composition.
- The legislator granted the voter the right to appeal against electoral lists if their registration was overlooked or intentionally prevented, despite meeting the legal requirements. This appeal is made through objections to the municipal committee for reviewing electoral lists. However, the legislator did not specify the procedures for filing these objections or the steps involved.
- The legislator did not clarify the legal nature of the decision issued by the committee responsible for preparing electoral lists in the case of an appeal.
- Linking the deadlines for filing administrative appeals in the registration process for electoral lists to the announcement of the conclusion of the preparation and review of these lists may undermine the voter's right to file administrative appeals in the registration process for electoral lists.
- The legislator did not move towards establishing a separate committee to adjudicate citizens' complaints and objections regarding the accuracy of electoral lists. Instead, this task was delegated to the same Municipal Committee for Reviewing Electoral Lists.
- Explicitly specifying the jurisdiction of the ordinary judiciary to consider disputes related to registration in electoral lists under Order No. 21/01.

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- The judgment issued by the competent court is a final and conclusive judgment that is not subject to any form of appeal.

Recommendations:

- It is preferable to calculate the deadlines for administrative appeals from the date the electoral lists are presented for inspection rather than the date of announcing the conclusion of registration operations.
- Grant administrative judiciary jurisdiction to adjudicate disputes related to registration and removal in electoral lists.
- Review the permissibility of reviewing the decision of the competent judicial authority and reconsider the immunity of judicial decisions in disputes related to registration in electoral lists.

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