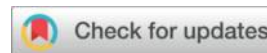




Legal and Judicial Guarantees for Protecting the Right to Candidacy in Algeria: Decision to Reject Candidacies for Local and Legislative Elections as model



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Abstract

The candidacy submission phase is considered one of the most crucial stages of the electoral process, due to its association with the exercise of a constitutional right, namely the right to candidacy. This right is subject to a series of controls and conditions under the provisions of the Organic Law on Elections, primarily aimed at moralizing this right to ensure the integrity and credibility of the electoral process and to guarantee the protection of the rights of the parties involved in the electoral process. To achieve this, the Algerian legislator has imposed through the provisions of Order No. 21-01, which includes the Organic Law on Elections, a set of legal and judicial controls on representatives of the Independent Authority authorized to issue decisions rejecting candidacies, prompting us to explore the adequacy and effectiveness of these guarantees.

Keywords

**Legal and judicial guarantees;
Decision of rejection;
Representatives of the independent authority;
Right to candidacy;
Protection;
Local and legislative elections.**

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I- Introduction :

The topic of electoral disputes in general, and specifically disputes over the rejection of candidacies for local and legislative elections, is one of the most important subjects deserving of study and analysis due to its close connection to the right to candidacy as a constitutional right. This right is regulated by (Order No. 21-01, 2021) according to precise legal procedures and controls to ensure the integrity and credibility of the electoral process, and thereby moralize political life as a principle adopted by the Algerian legislator in the provisions of the Organic Law on Elections. This includes the introduction of various conditions that govern the candidacy process, such as rejuvenation of candidates, gender parity in electoral lists, the integrity of candidates and their non-involvement with corrupt financial circles, along with other conditions such as not serving more than two terms for candidates of the National People's Assembly, completing a full electoral term for candidates of the Council of the Nation, and a sponsorship condition when it comes to presidential elections.

Through these conditions, the Algerian legislator has attempted to recalibrate the candidacy stage in alignment with the protection of the moralization principle. To ensure real protection of the right to candidacy, the legislator has restricted through the provisions of (Order No. 21-01, 2021), which includes the Organic Law related to the electoral system, the authority charged with overseeing and monitoring the electoral process, including the provincial delegations and delegations at the international level, with a set of controls aimed at simultaneously guaranteeing the protection of the right to candidacy and the principle of legality. Among the most important of these is the requirement for a legal rationale in the decision of rejection, demanding clarity, precision, and explicitness in it, in addition to the obligation to communicate it to the relevant parties within specified legal deadlines. Any violation of these controls by the authority coordinators at the national level or at the level of diplomatic representations makes the rejection decisions issued by them subject to appeal for annulment before the competent judicial authorities, due to their illegitimacy.

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

Are the guarantees provided under Order 21-01 sufficient to protect the right to candidacy and reduce electoral disputes resulting from the rejection decision issued by representatives of the Independent Authority for Elections?

The following sub-questions fall under this problem:

- What are the legal and judicial guarantees to protect the right to candidacy against the rejection decision issued by the coordinators of the Independent Authority for Elections?
- How does the administrative judge exercise control over the decisions of rejection of candidacies or lists of candidacies for local and legislative elections?

From this perspective, our study aims to highlight and analyze the most important controls introduced by the provisions of (Order No. 21-01, 2021), which fall under the protection of the right to candidacy during the candidacy submission phase for elections of the Municipal and Provincial People's Councils, as well as elections of the National People's Assembly and the Council of the Nation. The study also aims to demonstrate the most important guarantees dedicated to candidates and lists of candidacies in the face of the rejection decision, in addition to identifying the judicial bodies competent to consider disputes arising from the rejection of candidacies for local and legislative elections, and the most important procedures followed in this regard.

To address the problem posed, we attempted to divide the study plan into two main sections:

- The first section, titled "Disputes over the Rejection of Candidacies or Lists of Candidacies for Local Elections," aims to highlight the legal guarantees for protecting the right to candidacy, represented by the conditions and controls of the rejection decision, and then the judicial aspect, represented by the judicial appeal against the rejection decision.
- The second section is dedicated to disputes over the rejection of candidacies or lists of candidacies for legislative elections. Here, we also sought to highlight the competent authority responsible for issuing the rejection decision and the cases of rejection, and to specify the judicial bodies competent to adjudicate appeals against the decision.

II–Guarantees for Protecting the Right to Candidacy for Local Elections:

The electoral process for candidacies in municipal and provincial councils is subject to a set of conditions and procedures as specified by the provisions of (Order No. 21-01, 2021). These include conditions that must be met by the candidates, such as nationality, legal age, proof of status regarding national service and tax administration, and a condition of integrity. There are also conditions related to the acceptance of newly introduced candidate lists under the provisions of (Order No. 21-01, 2021) to embody the principle of moralizing the electoral process in general and the right to candidacy in particular (Belrabeh & Nasreddine, 2022, p. 1621). These include conditions such as rejuvenation of candidate lists, gender parity, university educational level, not serving more than two terms, and the condition of completing a full term, in addition to the conditions of signatures and endorsements.

All these conditions included in the provisions of (Order No. 21-01, 2021) aim to recalibrate the candidacy process according to the requirements of moralization, and to combat corrupt political money to ensure integrity, transparency, and credibility of the electoral process. They also ensure respect for the rule of law on the one hand, and protection of the rights of candidates whose applications are rejected on the other hand.

The coordinator of the provincial delegation for the Independent Authority is the only person legally qualified to issue a decision to reject a candidacy or a list of candidates, under the provision of Article 183 of (Order No. 21-01, 2021), which states, "Any rejection of a candidacy or a list of candidates must be made by a decision with a clear legal rationale from the coordinator of the provincial delegation for the Independent Authority..."

Consequently, the rejection decision issued by the provincial coordinator of the Independent Authority, which includes the rejection of a candidacy or a list of candidates, is subject to appeal for annulment before the territorially competent administrative court, according to legal conditions and deadlines included in the provisions of (Order No. 21-01, 2021), which includes the Organic Law on Elections.

II.1. Legal Guarantees:

Based on Article 83 of (Order No. 21-01, 2021) mentioned above, the decision to reject nominations or a list of candidates issued by the provincial coordinator of the independent authority must meet a set of conditions and controls, which collectively serve as a guarantee to protect the principle of legality on one hand, and the rights of the candidates and nomination lists, and the provincial coordinator of the authority on the other hand. These can be summarized as follows:

II.1. 1. Mandatory Legal Rationale for Rejection:

The Algerian legislator, through the provisions of the Organic Law on Elections 21/01, as amended and supplemented, requires the provincial coordinator of the independent authority, in case of rejecting a nomination or certain nominations or a list of candidates, to disclose this rejection in the form of a legally justified decision, which explains the legal reasons that led to the rejection of a person or several persons or an entire list of nominations (Ghallabi, 2023). It is worth noting that the rejection decision issued by the provincial coordinator can take two levels.

A. Decision to reject a nomination or several nominations:

The first level concerns issuing a decision to reject a nomination or several nominations, such as when the provincial coordinator of the independent authority justifies the rejection decision for not meeting the legal age requirement for candidates in municipal and provincial elections, set at least twenty-three (23) years on the day of the election. Additionally, the provincial coordinator can justify rejecting a candidate's file due to proven connections with suspicious financial and business circles, based on security and administrative reports sent from competent authorities, or if the candidate has been sentenced to a final custodial sentence for committing a felony or misdemeanor and has not been rehabilitated, or if the candidate or a group of candidates fails to prove their status regarding national service, or their status towards the tax administration is negative, such as being indebted to the state or one of its institutions.

In the case of someone running in more than one list or more than one electoral district, and after the provincial coordinator observes and factually proves this legal violation, a decision to reject the candidacy of the concerned is issued based on Article 181 of (Order No. 21-01, 2021), which stipulates that "no one can run in more than one list or in more than one electoral district... in addition to rejecting the nomination lists concerned by force of law."

To embody the ethnicization of the electoral process, and to lend credibility and seriousness in preparing the electoral lists, and to combat feudalism and tribalism, the Algerian legislator has granted the authority to the provincial coordinator to reject candidate files, or even lists that do not respect the condition of preventing running in one list by more than two persons belonging to the same family, whether by kinship or marriage of the second degree. This is also a situation that the coordinator can rely on to justify the rejection decision.

Therefore, the legal rationale refers to the totality of cases, controls, and conditions included in the provisions of (Order No. 21-01, 2021), specifically regarding the candidate himself. Merely violating or not meeting one of these conditions makes the nomination files susceptible to rejection by the provincial coordinator of the independent electoral authority, who must examine them, scrutinize them, and justify the rejection cases based on the provisions of the Organic Law on Elections 21-01.

B. Decision to Reject a List or Lists of Nominations:

Unlike the first case, which involves rejecting candidates' files, the second case relates to rejecting a list of nominations or several lists. The provincial coordinator of the independent authority can base this rejection on the candidate list for the municipal and provincial councils not including a number of candidates that exceeds the number of seats to be filled by three (03) in electoral districts with an odd number of seats, and by two (02) in districts with an even number of seats, or the list not meeting the gender parity condition for municipalities (Nouiri, 2022, p. 176), with a population equal to or exceeding twenty thousand (20,000) inhabitants, or the invalidity of signatures. (Order No. 21-01, 2021), through Article 178 Paragraph 03, requires collecting signatures for municipal and provincial elections when presenting a list of candidates under the sponsorship of a political party that has not obtained more than four percent (04%) of the expressed votes, or is not represented by ten (10) local elected officials in case the list is presented under the sponsorship of a political party participating for the first time in local elections, or in case of presenting an independent list.

The lack of adherence to the youthfulness condition, through the absence in the nomination list of at least one-half (1/2) of the candidates being under 40 years old on the day of voting, is also considered a legal justification that the provincial coordinator can rely on in explaining the decision to reject the nomination list, whether in local elections or elections for the National People's Assembly. Additionally, the rationale for the rejection decision is legal when the provincial coordinator justifies it by the absence and non-compliance of the nomination list with the newly introduced university-level education requirement under the provisions of (Order No. 21-01, 2021), estimated at one-third (1/3).

These are all legal justifications that the coordinator of the independent authority at the provincial level must rely on and focus on in issuing the rejection decision related to the candidate or list of candidates. Otherwise, the decision is considered flawed with a defect of legality, which can be challenged before the competent administrative judicial authorities.

II.1.2. Requirement for Clarity and Explicitness in the Rejection Decision:

To embody the principle of legality, and to ensure the integrity and credibility of the electoral process in general and the nomination process in particular, it is required that the rejection decision issued by the provincial coordinator of the independent authority, and no other, be clear in terms of its wording and phrases, and that it should not be open to interpretation or require explanation, nor should it be ambiguous. It should address a specific candidate or a group of candidates by their names and characteristics, when it concerns the rejection of the file of one or more candidates. However, if it concerns the rejection of a list of nominations, the provincial coordinator of the independent authority must specify in the rejection decision (the name of the list, the party, the electoral district, names and titles of the candidates on the list, etc.).

Therefore, explicit and legally justified rejection decisions issued by the provincial coordinator of the independent authority constitute a real guarantee for him and for the principle of legality, protect him from falling into defects of legality, and ensure the integrity of the electoral process and enhance the credibility of the authorities responsible for overseeing it.

II.1.3. Mandatory Communication of the Rejection Decision Within the Deadlines:

Among the most important guarantees for protecting the rights of candidates established by the provisions of (Order No. 21-01, 2021), as amended and supplemented, is the emphasis on the necessity of communicating the rejection decision issued by the coordinator of the provincial delegation of the independent authority to the concerned parties (the candidate or candidates, representative of the list of candidates), within a full eight (8) days, starting from the date of filing the nomination declaration (filing the list) at the provincial delegation of the independent authority, under penalty of nullity¹.

In the event that the parties concerned are not notified within this period, the candidacy is considered accepted despite the issuance of the rejection decision. This highlights the importance of communication in disputes in general and electoral disputes in particular, as non-compliance with it by the competent authority as a procedure will lead to the nullification of the rejection decision and the candidacy or list of nominations being considered accepted.

II.2. Judicial Guarantees to Protect the Right to Nomination (Judicial Appeal):

Refusal by the competent authority to accept nomination files for any candidate or list of candidates entails legal consequences for the candidates. Algerian legislation enables them to exercise the right to judicial appeal against decisions rejecting their nominations. This is a strong protection of their constitutional right, as such freedom cannot be restricted or prevented except by legal provision (Rahmani, 2021, p. 129). Therefore, every candidate or list of candidates whose nominations are rejected has the recourse to the competent judiciary to protect their constitutional right.

It is worth noting that the provisions of (Order No. 21-01, 2021) do not grant candidates or rejected lists of candidates the possibility to appeal or lodge an administrative complaint against the decision of the regional coordinator of authority. This, in our view, is attributed to the fact that administrative complaints are time-consuming on one hand, and on the other hand, the electoral process is tied to tight legal deadlines. Hence, the legislator directs the concerned parties straight to the administrative judiciary, specifying the competent authorities to settle disputes and the deadlines granted to them.

II.2.1. Jurisdiction of the Administrative Judiciary to Adjudicate Appeals and the Given Deadlines:

Although the provincial delegate offices do not possess legal personality, being an extension of the independent electoral authority at the local level, and despite the fact that the provincial coordinator does not have legal capacity to litigate (Haydour, 2022, p. 733), decisions of rejection issued by the provincial delegate coordinator of the independent authority fall under the jurisdiction of the competent administrative court regionally, according to Article 183, Paragraph 02 of (Order No. 21-01, 2021). This is within a period of three (03) full days starting from the date of notification of the decision to the concerned parties, represented by the candidate when it concerns the rejection of a nomination, or the representative of the list if it concerns the rejection of the entire list for the reasons mentioned earlier.

The administrative court must necessarily adjudicate on the appeal submitted before it within a period of four (04) full days from the date of submission of the appeal before it. This is based on either rejecting the appeal submitted by the candidate or list of candidates, thereby affirming the decision of rejection issued by the provincial coordinator of the independent authority. Alternatively, accepting the appeal procedurally and ruling on the validity of the nomination file(s) or list of candidates, and declaring the violation of the decision of the provincial coordinator of the independent authority concerning the legal and regulatory provisions related to justifying the reasons for rejection.

In this case, the decision of rejection is flawed with one of the defects of legality, and the administrative judge intervenes to exercise its control over this decision explicitly by declaring its lack of legitimacy. Examples include the issuance of a rejection decision by an incompetent provincial coordinator (lack of jurisdiction), failure to notify the decision of rejection to the concerned parties within the legal deadlines (procedural defect), or failure to justify the decision by the provincial coordinator (defect of causation), and so on.

II.2.2. Establishment of the Principle of Dual Jurisdiction in Electoral Disputes as a Guarantee to Protect the Right to Nomination:

1- Article 183 of Order No. 21-01, as amended and supplemented.

In embodiment of the constitutional principle, the establishment of dual-tier adjudication in the field of the newly established administrative judiciary, pursuant to the constitutional amendment of 2020, through Article 179 ([Presidential Decree No. 20-442, 2020](#)) thereof, introduced an administrative judicial body named "Administrative Courts of Appeal." This entity represents a second tier for appealing judgments issued by administrative courts adjudicating appeals against decisions of rejection (rejection of nominations or nomination lists) issued by the provincial coordinator of the independent authority.

In realization of this constitutional principle, judgments issued by regionally competent administrative courts, adjudicating appeals against decisions of rejection issued by the provincial delegate of the independent authority, are subject to appeal before the Administrative Court of Appeal. The concerned parties may appeal the judgment of the regionally competent administrative court before the regionally competent Administrative Court of Appeal (the Council of State temporarily) within a period of three (03) full days, commencing from the date of notification of the judgment to the parties.

The regionally competent Administrative Court of Appeal adjudicates on the appeal submitted before it within a period of four (04) full days from the date of submission of the appeal on its level, by means of a decision not subject to any form of appeal. The decision issued by the Administrative Court of Appeal is automatically and immediately notified to the concerned parties and to the provincial coordinator of the delegate office of the independent authority for implementation, as affirmed by Article 183 of ([Order No. 21-01, 2021](#)).

Therefore, it can be said that the establishment of Administrative Courts of Appeal in Algeria constitutes a qualitative leap in the administrative judiciary as a whole, and a fundamental guarantee for the establishment of the principle of dual-tier adjudication, especially in electoral matters where the violation of this principle was evident ([Hamza & Bouzid, 2023, p. 421](#)).

III- Guarantees for Protecting the Right to Nominate in Legislative Elections:

The nomination process for the National People's Assembly and the Council of the Nation is subject to a set of conditions and criteria that must be met by candidates and nomination lists. These conditions are examined and audited after submission at the level of the extensions of the independent electoral authority by the coordinators of these entities. They decide on acceptance if the required conditions are met or on rejection if any of the specified legal conditions under the provisions of ([Order No. 21-01, 2021](#)) are not met.

III. 1. Legal Guarantees:

Nomination is considered one of the constitutional rights ensured by the provisions of the constitutional document and regulated by the provisions of the organic law related to elections. To exercise this right within its framework, the legislator provides a set of legal guarantees against decisions of rejection issued by the coordinators of the independent electoral authority concerning nominations for municipal and provincial councils, as well as for the National People's Assembly and the Council of the Nation.

III.1.1. Determining the Authority Competent to Issue Rejection Decisions:

When it comes to rejection decisions concerning nominations or nomination lists for legislative elections², the organic electoral law distinguishes between two cases:

A. For candidates in electoral constituencies within the country:

Regarding candidates in electoral constituencies within the country, the authority to decide on the validity of nominations and nomination lists and their compliance with the legal conditions specified under the provisions of the organic electoral law is vested solely in the coordinator of the provincial delegate office of the independent authority, as affirmed by the provisions of Article 206 of ([Order No. 21-01, 2021](#)).

It is noteworthy in this context that Article 226 of Order 21-01 does not explicitly mention the phrase "provincial delegate office," referring instead to the competent authority to decide on the validity of nominations for two-thirds of the members of the Council of the Nation. This contrasts with the aforementioned provisions, as its wording is as follows: "The provincial delegate office of the independent authority decides on the validity of nominations... and may reject them with a reasoned decision."

2- Article 206 of Order No. 21-01.

Based on the wording of the article, it is apparent that the legislator used general phrases such as "the provincial delegate office" and "may reject them," raising questions about the significance of the legislator's change in formulating Article 226 compared to Article 206 and Article 183 of the same order, especially considering that provincial delegate offices consist of several delegates.

B. For candidates in electoral constituencies outside the country:

If provincial delegate offices are extensions of the independent authority for elections at the national level, then delegate offices at diplomatic and consular missions are extensions of the authority abroad. In this context, they receive nomination files and lists for legislative elections and decide on them based on a decision issued by their coordinator, either by acceptance or rejection if they do not meet the specified conditions under the provisions of ([Order No. 21-01, 2021](#)).

The decision to reject nominations or lists of candidates issued by the provincial coordinator of the independent authority or the coordinator of the authority at diplomatic or consular missions abroad for legislative elections is subject to the same conditions and criteria as rejection decisions for municipal and provincial elections. These conditions include legal justification, clarity, and compliance with the legal deadlines for notification. The rejection decision must be notified, under penalty of nullity, within eight (08) days from the date of submitting the nomination declaration. In this context, the president of the independent authority may, if necessary, extend the deadline by up to four (04) days, making the total deadline twelve (12) days. Once these deadlines expire, whether in the ordinary case or in the case of an extension, the nomination is considered legally accepted ([Article 01 of Order No. 21/05, 2021](#)). As for elections for members of the Council of the Nation, the rejection decision must be notified to the candidate within two (02) full days from the date of the nomination declaration³.

III.1.2. Lack of Precise and Exclusive Determination of Cases for Rejecting Nomination Files or Lists of Nominations within the Provisions of Order 21-01 (Possibility of Interfering with the Right to Nominate):

Article 206 of ([Order No. 21-01, 2021](#)), as well as Article 226 of the same order, did not specify the cases in which candidates' declarations for the National People's Assembly or two-thirds of the members of the Council of the Nation would be rejected ([Hamoudi, 2019, p. 09](#)). Article 226 only refers to the rejection of any nomination based on the absence of specific legal conditions stipulated in the organic electoral law.

Thus, the nomination for the National People's Assembly or two-thirds of the Council of the Nation can be rejected based on a reasoned decision providing legal justification. In this decision, the provincial coordinator of the authority or the coordinator of the authority at diplomatic or consular missions must justify the reasons for rejection. This could include not reaching the legal age limit of twenty-five (25) years for candidates for the National People's Assembly, and thirty-five (35) years for Council of the Nation candidates, being convicted of a final freedom-depriving penalty that has not been pardoned, involvement in suspicious financial and business activities influencing the free choice of voters and the smooth conduct of the electoral process, failure to prove the candidate's or group of candidates' status regarding national service, or being indebted to the tax administration.

Among the cases in which candidates' files or lists may be rejected is the situation where a candidate has served two previous parliamentary terms, whether consecutive or separate, for elections to the National People's Assembly. Another case is the failure of a candidate to complete a full term for two-thirds of the members of the Council of the Nation, as an elected member of a municipal or provincial council, for a period of five (5) years.

As for the cases of rejecting lists of nominations, they can be limited to the failure to meet the legal quota requirement for signatures and endorsements. Regarding signatures, this procedure is used in two cases: when a list is submitted under the auspices of a political party that did not obtain at least 4% of the votes cast in the electoral constituency during the last legislative elections, and when a list is submitted under the auspices of a political party or parties that did not obtain at least ten (10) elected members in the electoral constituency in which the nomination is made.

If one of these two situations occurs, nomination lists must be supported as a general rule by at least two hundred and fifty (250) signatures from the voters of the relevant electoral constituency, per seat to be filled. Otherwise, the list or lists of nominations will be rejected.

Additionally, the provincial coordinator of the independent authority may reject a nomination or group of nominations for two-thirds of the Council of the Nation if the candidate does not attach, under the sponsorship of a political party, a certification signed by the party's top official endorsing the nomination. This is because Article 222,

3- Article 226, paragraph 03, of Order No. 21-01, as amended and supplemented.

paragraph 02 of the order, uses the obligatory form, stating, "...their declaration must be accompanied by a certification signed by the top official of the party."

Moreover, the failure to respect the condition of representation through half of the nominations being youth under the age of forty (40) on the day of the election, or the failure to respect the educational level criterion set forth by the provisions of (Order No. 21-01, 2021), which is estimated at one-third (1/3), could lead to rejection. Additionally, if the provincial coordinator has clear evidence that a candidate is nominated on more than one list or in more than one electoral constituency, as confirmed by Article 205 of (Order No. 21-01, 2021), it could be among the assumed cases for the rejection of the provincial coordinator's list or lists of nominations for the National People's Assembly elections.

III.2. The Role of Administrative Justice in Protecting the Right to Nominate for Legislative Elections:

Electoral appeals constitute an important guarantee for monitoring the normal conduct of elections, and citizens place great hope in them due to the judiciary's role in ensuring the legality of elections. Therefore, Articles 206 and 226 of (Order No. 21-01, 2021) allow appeals against decisions rejecting nominations or lists of candidates for legislative elections within certain deadlines and according to specific legal procedures.

III.2.1. Competence of the Administrative Court:

The jurisdiction to adjudicate disputes arising from decisions of rejection issued by the competent authorities is entrusted to the administrative judiciary. In this context, the legislator distinguishes between two situations:

A. Competence of the Administrative Court Regionally:

When it comes to a decision of rejection issued by the coordinator of the state delegation of the independent authority, addressed to and concerning candidates in the electoral constituencies within the country, the competent administrative court in the region in this case reviews appeals against these decisions involving the rejection of nominations or lists of nominations, based on the provisions of Article 206 paragraph 03 of (Order No. 21-01, 2021), and Article 226 of the same order.

B. Competence of the Administrative Court in Algiers (Dual Competence):

Unlike the first situation, the jurisdiction to consider appeals against decisions rejecting nominations or lists of nominations is entrusted to the Administrative Court in Algiers when it concerns candidates in electoral constituencies abroad⁴.

As for the deadlines granted to the parties concerned by the rejection decision to lodge their judicial appeal before the administrative court, they vary according to each case. If it concerns candidates in electoral constituencies within the country, the deadlines granted to the parties concerned to lodge their appeal against the rejection decision issued by the coordinator of the state delegation of the independent authority and the judge rejecting nominations or the list of candidates for legislative elections are estimated at three (03) full days, starting from the date of notification of the rejection decision to the parties concerned.

Regarding the second situation, which concerns candidates in electoral constituencies abroad, the deadlines for appealing against the decision to reject nominations or lists of candidates issued by the coordinator of the authority at diplomatic or consular missions abroad are also three (03) full days, starting from the date of notification of the rejection decision to the parties concerned⁵.

It is worth noting that the deadlines for appealing against rejection decisions related to this situation, according to (Order No. 21-01, 2021) before its amendment, were estimated at four (04) full days, which were reduced to three (03) days according to Order No. 21/05, amending some provisions of (Order No. 21-01, 2021).

After the submission of appeals by the concerned parties according to the aforementioned two situations, the competent administrative court, whether regionally or in Algiers, decides on the appeal filed before it within a period of two (02) days from the date of submission of the appeal to it. The court either rejects the appeal filed by the candidate or the list of candidates, thereby affirming the rejection decision issued by the provincial coordinator of the independent authority or the coordinator of the authority at the diplomatic or consular mission abroad, or accepts the appeal formally and rules on the validity of the nomination file or files or the list of candidates.

4- Article 206, paragraph 04, Order 21-01, as amended and supplemented.

5- Article 01 of Order No. 21/05, amending Article 206 of Order No. 21/01.

III.2.2. Establishing the Mechanism of Judicial Appeal through Appeal for the First Time:

One of the most important aspects of protecting the right to nominate for legislative elections, especially when facing decisions of rejection issued by the coordinators of the independent electoral authority, is the establishment of the mechanism of judicial appeal through appeal against judgments issued by administrative courts affirming decisions of rejecting nominations or lists of nominations issued by the coordinators of the authority. It is permissible for the concerned parties to appeal (the judgment) by filing an appeal before the competent administrative appellate court (provisional Council of State) within a period estimated at two (02) days, starting from the date of notification of the judgment to the parties.

Previously, under Law 16-10 (now repealed), administrative courts used to adjudicate judicial appeals filed before them against decisions of rejection of nominations or lists of nominations as a first and final instance, based on final judgments not subject to any form of appeal. This constituted a breach of the principle of double-instance litigation in administrative law, depriving candidates of the opportunity to re-litigate their disputes before different judicial bodies. The Algerian legislature attempted to reconsider this issue by granting candidates and representatives of rejected nomination lists the opportunity to appeal their cases before administrative appellate courts to review them in accordance with the principle of legality. These appellate bodies (Council of State) played a significant role during the recent legislative elections in ensuring the protection of the rights of candidates whose nomination files were rejected. They issued decisions affirming the validity of their nomination files, thereby overturning judgments of administrative courts rejecting judicial appeals filed against decisions of authority coordinators, whether internally or externally. This constitutes a real guarantee adopted by the Algerian legislature in electoral law to protect the constitutional right granted to every candidate who meets the specified legal conditions.

The competent administrative appellate court regionally decides on the appeal filed before it within a period of two (02) days from the date of submission of the appeal, based on a judgment not subject to any form of appeal. The decision issued by the administrative appellate court is automatically and immediately notified to the concerned parties and to the coordinator of the state delegation of the independent authority for execution upon issuance.

IV-Conclusion:

In response to the posed issue, it can be said that the Algerian legislator has introduced a set of legal provisions that restrict the authority of the wilaya coordinator of the independent authority, as well as the coordinator of the authority at diplomatic missions or consulates, in exercising their supervisory jurisdiction over nomination files and lists. They are obliged by the provisions of ([Order No. 21-01, 2021](#)) to disclose their position regarding the files and lists submitted to them by means of an explicit and clear decision that does not tolerate interpretation or doubt, and to justify their decisions of rejection with legal reasoning, officially notifying the concerned parties within specified legal deadlines, ensuring the right to nominate.

In return, the parties with the status and interest were granted the right to resort to administrative justice to challenge the administrative decision issued by the coordinators of the independent authority depending on the case, and the judge's refusal to nominate specific lists, according to specific deadlines and procedures under the provisions of ([Order No. 21-01, 2021](#)), allowing the competent judicial authorities to adjudicate on its legitimacy (rejection decisions).

Based on the foregoing, we have reached a number of conclusions, which can be summarized as follows:

- The legal guarantees to protect the right to nominate have significantly reduced the cases of resorting to administrative justice to demand the annulment of rejection decisions related to age requirements, proof of national service and tax administration, equal opportunities, and nepotism. However, rejection decisions based on suspicion stipulated under Article 184 of ([Order No. 21-01, 2021](#)) remain a black mark in this context, as the ambiguity and generality of this condition have increased the number of cases brought before administrative courts (and the Council of State) for appeal.
- Judicial guarantees, represented by the administrative judicial authorities, especially the appellate courts, have significantly contributed to protecting the principle of legality by subjecting rejection decisions to their scrutiny and annulling anything contrary to legislative and regulatory texts.
- The jurisdiction to adjudicate on appeals against decisions of authority coordinators refusing nominations is determined primarily by the competent administrative court.
- Establishing the principle of double-instance litigation in electoral disputes for the first time is one of the most important guarantees for protecting the rights of candidates.

- The jurisdiction to adjudicate on disputes concerning the rejection of nominations for local elections lies with the competent administrative court regionally.
- The jurisdiction to adjudicate on disputes concerning the rejection of nominations for legislative elections lies with the competent administrative court regionally when it comes to a decision of rejection issued by a regional coordinator of the authority, concerning the rejection of nominations or lists, pertaining to electoral districts within the country.
- The jurisdiction to adjudicate on disputes concerning the rejection of nominations for legislative elections lies with the administrative court of Algiers (exceptional jurisdiction) when it comes to a decision of rejection issued by the coordinator of the authority at diplomatic missions or consulates, concerning the rejection of nominations or lists pertaining to electoral districts outside the country.
- The role of the administrative judge in the competent administrative court regionally, or the administrative court of Algiers, or the administrative appellate courts, in exercising control (cancellation control) over rejection decisions issued by the coordinators of the independent electoral authority, examining their legitimacy in terms of the jurisdictional basis, locus standi, reason, purpose, in addition to form and procedures.

Based on the conclusions reached, we present a number of recommendations, the most important of which are:

- We suggest that the legislator regulate and define cases of rejecting nomination files and lists precisely, for each electoral process under explicit legal provisions, protecting the coordinators of the authority as decision-makers for rejection, and also protecting the right of candidates to exercise their constitutional right.
- We also propose a review of the integrity requirement enshrined under Article 184 of ([Order No. 21-01, 2021](#)), by removing the ambiguity surrounding it, readjusting it, and determining mechanisms for proving it to ensure the protection of candidates' rights.

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