

The President and the Legislative Majority in Light of the 2020 Constitutional Amendment

Souheyla Meziani¹ (Lecture Class A)

University of Batna 1

Multidisciplinary Research and Studies Laboratory in Law, Heritage and History, Algeria.

souheyla.meziani@univ-batna.dz

Lemya Bendaas² (Lecture Class A)

University of Batna 1

Governance and Economic Law Laboratory, Algeria.

lemya.bendaas@univ-batna.dz

Wafa Dridi³ (Prof)

University of Batna 1,

Multidisciplinary Research and Studies Laboratory in Law, Heritage and History, Algeria.

wafa.dridi@univ-batna.dz

Received: 14/01/2025

Accepted: 10/04/2025

Published: 02/10/2025

ABSTRACT: In 2020, the Algerian constitutional founder enacted a new constitutional amendment. The aim was to provide constitutional guarantees that would allow opposition political parties to form a government if they won a legislative majority. This research paper addresses the question of who holds power — the president or the parliamentary majority — especially when the latter opposes the president. Several conclusions were reached in this paper, the most notable being that, despite constitutional guarantees entitling the opposition majority to form a government and implement its political programme, reliance on a proportional representation system with party lists and contradictions among political parties significantly reduces the likelihood of an opposing parliamentary majority emerging against the president's orientations and policies. Furthermore, competition between the president and the prime minister (or head of government) remains highly plausible within the Algerian semi-presidential system. Additionally, conflicts between the president and an opposing parliamentary majority regarding appointments and policies could hinder the political process between the executive and legislative branches, ultimately increasing governmental instability.

Keywords: President, Prime Minister, Head of Government, Parliamentary Majority, Algerian Constitution.

Introduction

Since the mid-twentieth century, the semi-presidential system has emerged as a new institutional model that could serve as an alternative to traditional parliamentary and presidential systems. Thanks to this new constitutional architecture, France was able to restore governmental stability and enhance the performance of the executive authority in economic and social policy areas during the Fifth Republic. France's success has prompted many countries in Central and Eastern Europe, as well as Asia and Africa, to adopt this model.

Algeria adopted this model in both its 1989 and 1996 constitutions, the latter of which underwent several amendments, including those of 7 February 2016 and 1 November 2020. The advantage of the semi-presidential system seems to lie in the division of power between the two heads of the executive branch: the president and the prime minister, depending on the case and according to the Algerian constitution. The latter is expected to play a central role in leading the government, particularly with regard to appointing senior state officials and economic and social matters.

The founder of the Algerian constitution placed significant emphasis on the will of the voters, as reflected in the electoral majority. If the legislative majority aligns with the presidential majority, the prime minister heads the government. Conversely, if the two majorities are not aligned, the government is headed by a head of government. These two newly established scenarios raise the question: who holds more power — the legislative majority or the president?

To address this issue, we propose the following hypotheses:

- Adopting the legislative majority rule constitutes a guarantee for opposition political parties, providing them with the potential to form a government if they win the legislative majority in the general parliamentary elections. This increases the likelihood of political coexistence between the president and a legislative majority that differs from or opposes him.
- Reliance on a proportional representation system in legislative elections weakens the chances of a large, cohesive legislative majority emerging to assist the president in consolidating his control over the executive authority.

Based on the above, this research paper is divided into two sections:

1. The President
2. The presidential majority and the legislative majority.
3. The legitimacy of the prime minister and head of government
4. The powers of the prime minister and head of government, and the implementation of public policy

1. The President:

The semi-presidential system is characterised by the presence of a president who is elected by the people for a specified term, which is often set at five years but can be as long as seven years in some cases. There is also a National People's Assembly, which is directly elected by the public for a term ranging from four to five years. Additionally, there is a Prime Minister and his government, who are accountable to the National People's Assembly and the President of the Republic under the threat of dismissal. The Prime Minister and ministers remain in office only with the dual confidence of the National People's Assembly and the President¹.

¹- Look at the definition of the semi-presidential system by Maurice Duverger in his famous article in English: Maurice Duverger; A New Political System Model: Semi-Presidential Government. *European Journal of Political Research*; No. 8 (1980), p. 166.

The definition of this study is quoted from the article by the researchers:

David J. Samuels and Matthew Shugart; The Appointment and Dismissal of the Prime Minister in Semi-Presidential Regimes: The Impact of the Presidentialization of Political Parties. *International Review of Comparative Politics*. Vol. 17, No. 1, 2010, pp. 69-70.

While this study focuses on the status of the prime minister or head of government as outlined in the constitutional amendment of 1 November 2020, it is important to briefly discuss the president's constitutional status and powers, as these are the main factors that determine the position of the prime minister or head of government. Furthermore, we will analyse the relationship between the two heads of executive authority and how powers are shared between them.

1.1 Election of the President:

In Algerian constitutional tradition, established under the 1963 Constitution, the president is the central figure of the political system. This status stems from the powers granted to him by the constitutional founder. The president is elected for a five-year term through direct, secret and absolute majority voting in the first round. If no candidate wins in the first round, a second round is held featuring only the two candidates who received the most votes. The candidate who obtains the highest percentage of votes in this round is declared the winner².

Direct election of the president gives him democratic electoral legitimacy and a national character, as he is elected by voters from across the country. By contrast, members of the National People's Assembly are elected only by voters in their own electoral districts. Therefore, the president's legitimacy supersedes that of parliament, particularly the legislative majority. This means that the prime minister and head of government operate under the president's authority and according to his electoral programme. If they disagree, they must resign.

One of the strengths of Algerian President Abdelmadjid Tebboune is that he is an independent candidate, unaffiliated with any party or political coalition in either the 2019 or 2024 elections. His affiliation with the moderate national trend helped him secure the most votes from various political factions, including Islamists, nationalists and democrats. Additionally, this electoral strategy as an independent candidate ensured his independence from any party or coalition, facilitating the implementation of his electoral programmes. Furthermore, presidential elections tend to personalise the electoral and political process in the media, focusing primarily on the president rather than other political organisations. In other words, voters tend to focus on the personal characteristics of candidates rather than the ideologies, political programmes or religious and intellectual orientations of political parties³.

1.2 The Exclusive Powers of the President:

These refer to the constitutional authorities that are solely held by the elected president. The constitution prohibits the Prime Minister or head of government from exercising these powers, except in cases of delegation, even in situations where the president is temporarily incapacitated (such as during resignation or death, as stipulated in Article 96 of the 2020 constitutional amendment).

The constitutional founder has endowed the elected president with powers that elevate him above the prime minister or head of government. Among these powers, the President embodies the unity of the nation and is responsible for preserving territorial integrity and national sovereignty. They are the guardian of the constitution and represent the nation both domestically and internationally. They also have the right to address the nation, as specified in Article 84 of the 2020 constitutional

²- Article 85 of the Constitution, Official Gazette, No. 82, issued on December 30, 2020, p. 19. Also Articles 247 and 248 of the organic law related to the electoral system, Official Gazette, No. 17, issued on March 10, 2021, p. 35.

³- Abdelkader Mechri, *Contemporary Semi-Presidential Systems: A Comparative Analysis*. Beirut: Dar Al-Nahda Al-Arabiya, 1st ed., 2020, p. 28.

amendment. The President is also the Supreme Commander of the Armed Forces and the primary authority responsible for national defence. The president determines the country's foreign policy, presides over the Council of Ministers, appoints and dismisses the Prime Minister, exercises regulatory authority, ratifies presidential decrees and has the right to consult the people directly through a referendum and conclude international agreements (Article 91 of the Constitution).

In addition to these powers, the President exercises authority in exceptional circumstances (see Articles 97 to 101 of the 2020 Constitutional Amendment). Article 93 of the amendment allows the president to delegate some of their powers to the prime minister or head of government. However, there are specific powers that cannot be delegated under any circumstances. These powers, as mentioned in paragraphs two and three of Article 93, include:

1. appointing the prime minister or head of government, as applicable, or members of the government;
2. Appointing the heads and members of constitutional institutions for which the Constitution does not specify another method of appointment; and
3. Resorting to a referendum.
4. Dissolving the National People's Assembly and calling for early elections.
5. The president's powers as stated in Article 91.
6. Declaring a state of emergency or siege.
7. Declaring war.
8. Signing international agreements.
9. Legislating by decree.
10. Issuing laws.
11. Requesting a second reading of a law that has been voted on by Parliament.
12. Delivering a speech to the nation⁴.

1.3 The President's Powers in Relation to the Prime Minister or Head of Government:

The President also has considerable constitutional powers in relation to the Prime Minister or Head of Government. These include presiding over the Council of Ministers and legislating by presidential decree in urgent matters or emergency situations, particularly during parliamentary recess or in cases of parliamentary vacancy. Consultation with the Council of State is required, and the Constitutional Court must be notified of these legislative orders and rule on them within ten days. The orders are adopted by the Council of Ministers and presented to Parliament at the start of the legislative session for approval. If they are rejected, they become void.

In fact, even when the president wishes to make decisions such as dissolving the National People's Assembly, which require the opinion of the Prime Minister, these are merely consultations according to the constitution and thus non-binding on the president. Legally speaking, there is a significant difference between consultation and approval. If opposed by the Prime Minister, consultation is non-binding, meaning it is simply a request for the Prime Minister's opinion or

⁴- Articles: 91, 92, 93, 94, 97, 100, 102, 142, 148, 149, 150 of the constitutional amendment 2020, previous source.

perspective. In contrast, approval signifies an agreement between the two parties. Outright rejection by the Prime Minister of a decision that the president wishes to make would result in the suspension or annulment of that decision. If the president acts unilaterally, it is deemed unconstitutional. Therefore, the constitutional founder's inclusion of the term 'consultation' (non-binding) benefits the president at the expense of the prime minister or head of government, positioning the president in a constitutionally superior role.

Clearly, the constitutional founder placed the president in a higher position, granting him exclusive constitutional powers that render both the Prime Minister and the head of government dependent on the president. This is because they are accountable to the president and can be dismissed at any time; neither can perform their functions or implement government programmes without the president's support and backing. French legal scholar Jean Massot refers to this situation as a 'hierarchised dual executive'⁵ (Dyarchie Hiérarchisée). This dynamic will become clearer when we analyse the appointment of the prime minister or head of government, their specific powers, and the constitutional arrangements alongside the results of elections.

2. The Legislative and Presidential Majorities:

These two concepts are fundamental to analysing the constitutional and political authority of the president in both presidential and semi-presidential systems, such as the Algerian semi-presidential system. This section will define these concepts and clarify their respective impacts on presidential authority and the extent to which the president controls the executive and legislative branches, either wholly or partially.

2.1 The Legislative Majority:

When we say that the president enjoys the support of the legislative majority, this means that more than half of the deputies in the National People's Assembly support the president's decisions and policies, or at least 50 per cent plus one deputy. Politically, the legislative majority signifies the existence of a party or coalition that holds more than half of the parliamentary seats and supports the president's political programme.

In parliamentary systems, the legislative majority is a determining factor for the constitutional and political authority of presidents and prime ministers. Maurice Duverger argues that alignment in political orientation between the president and the parliamentary majority enhances their constitutional and political powers. These powers reach their maximum extent when the president leads the parliamentary majority. In such cases, the president can partially strip the prime minister and the government of their constitutional powers, effectively becoming the true leader of the government. The prime minister and ministers must then adhere to the president's orders, directives and instructions. They remain accountable to the president, who can dismiss them or compel their resignation. This is how the French semi-presidential system operated during the presidency of Charles de Gaulle⁶.

However, the president's stability alone is insufficient to ensure governmental stability in the absence of a parliamentary majority. Even if the president appoints a centrist government that relies on shifting majorities to pass legislation — sometimes right-wing, sometimes left-wing — this is

⁵ Jean Massot; Will the Immutable Preponderance of the Executive Through a Hierarchized Dyarchy Survive a Twenty-Fifth Constitutional Revision? *International Review of Comparative Law*. Vol. 70, No. 4, 2018, pp. 759-763.

⁶ Maurice Duverger, *Political Institutions and Constitutional Law: Major Political Systems*. Translated by George Saad. Beirut: University Press for Studies and Publishing, 1st ed., 1992, p. 252.

not a viable solution as it does not extend beyond one year. This is evidenced by the experiences of both Germany during the Weimar Republic and Finland⁷.

Recognising the crucial importance of a parliamentary majority for the effective functioning of the political system, the Algerian constitutional framers placed significant emphasis on the legislative majority. This is particularly important when a legislative majority emerges that does not align with the presidential majority. In such scenarios, the majority has the right to propose a head of government who derives their legitimacy from the majority and is responsible for implementing their political programme.

While an opposing legislative majority emerging against the president is a weak possibility in reality, given the simultaneous timing of presidential and legislative elections and the fragmentation of votes due to proportional representation and contradictions among political parties, the introduction of these constitutional arrangements can be seen as providing adequate constitutional guarantees for opposition parties to engage in the political process, especially following the national protests of 2019.

As mentioned above, Algeria's adoption of a proportional representation system since 1997 has played a fundamental role in dispersing votes and preventing their concentration in any one party. This is clearly evident in the legislative elections of 2017 and 2021, as illustrated in Tables 1 and 2.

Table 1: Results of the Legislative Elections of 4 May 2017⁸

Party	Number of Seats	Percentage of Seats (%)
National Liberation Front	161	34.84
National Democratic Rally	100	21.64
Alliance of the Movement for the Society of Peace	34	7.35
Gathering of Hope for Algeria	20	4.32
Union for Revival, Justice, and Construction	15	3.24
Future Front	14	3.03
Front of Socialist Forces	14	3.03
Algerian People's Movement	13	2.81
Workers' Party	11	2.38
Other Parties	80	17.31
Total Number of Seats	462	100

As can be seen in Table 1, no party secured an absolute majority on its own. However, the two parties belonging to the national trend together control 56.48% of the votes cast, equating to 56.49%

⁷- Same source, pp. 139-140.

⁸- Announcement No. 01/ of the Constitutional Council dated 21 Sha'ban 1438 corresponding to May 18, 2017, includes the final results of the election of members of the National People's Assembly. Official Gazette, No. 34, issued on 12 Ramadan 1438H corresponding to June 7, 2017, pp. 37-39.

(i.e. 261 out of 462) of the seats in the National People's Assembly. Nevertheless, there is clear vote fragmentation.

Significant vote fragmentation was also observed in the legislative elections on 12 June 2021, with a large number of political parties and independent candidates winning seats in the National People's Assembly. For example, the National Liberation Front lost 63 seats in this election and the National Democratic Rally lost 35 compared to the 2017 elections, thereby losing control of the assembly. Meanwhile, other parties and independent lists managed to increase their representation in the National People's Assembly.

Table 2: Results of the Legislative Elections of 12 June 2021⁹

Party	Number of Votes	Percentage of Votes (%)
National Liberation Front	98	24.07
Movement for the Society of Peace	65	15.97
National Democratic Rally	58	14.25
Future Front	48	11.79
National Construction Movement	39	9.58
Other Parties and Independent Lists	99	24.32
Total Number of Seats	407	100

2.2 The presidential majority:

The concept first emerged in France during a press conference held by President Georges Pompidou on 23 September 1971. During the conference, he stated: 'There are majorities; for example, there is the presidential majority that brought me here. There are electoral majorities that manifest in legislative elections, and there is not necessarily an agreement or parallelism between the presidential majority and the legislative majority.'¹⁰

The presidential majority can refer to either the absolute majority of voters who supported the president, or the party or governmental coalition that backed him through its electoral base. It can encompass voters (independent of parties) and the party or coalition that supported the president in the elections.

While the constitutional founder did not provide a clear and precise definition of the presidential majority, he did acknowledge in Article 85 that the President of the Republic is elected by direct, secret, universal suffrage, with the candidate who receives the most votes being considered the winner. This is elaborated on in Organic Law No. 21-1 regarding elections, particularly in Articles 247 and 248, which state that the presidential election occurs in two rounds. In the first round, the candidate who obtains the absolute majority (i.e. at least 50% + 1) wins. If this is not achievable, a

⁹- Announcement No. 01/ of the Constitutional Council dated 12 Dhu al-Qi'dah 1442 corresponding to June 23, 2021, includes the final results of the election of members of the National People's Assembly. Official Gazette, No. 51, issued on 18 Dhu al-Qi'dah 1442H corresponding to June 29, 2021, pp. 5-7.

¹⁰- Pierre Avril, The Head of State and the Notion of Presidential Majority. French Review of Political Science, 34th year, No. 4-5, 1984, p. 757.

second round of voting is held, involving only the two candidates who received the highest number of votes in the first round¹¹.

However, the legislator did not specify whether the majority required in the second round is simple or absolute. This can be interpreted in two ways. Firstly, the runoff is a stage at which political parties form alliances and select the candidate with the strongest chance of winning in the second round. Thus, the winning candidate will inevitably secure an absolute majority of the votes cast. The second factor relates to the emergence of a political tradition whereby all presidents in the era of multiparty systems are elected in the first round of presidential elections, albeit by a small margin. For example, Abdelmadjid Tebboune won 58.13% of the vote in the first round of the 2019 presidential election on 12 December.

The small percentage achieved by President Abdelmadjid Tebboune in the 2019 presidential election is likely due to the presence of five other candidates who had significant political experience and were supported by certain power circles and the state administration. These candidates also had considerable popular bases. This led to intense competition and the votes becoming fragmented, with each candidate receiving an acceptable percentage, despite a record abstention rate of 60.12%. In fact, the phenomenon of rising voter abstention is not confined to southern countries; many Western democracies are currently experiencing similar issues.

Table 3: Results of the Presidential Election of 12 December 2019¹²

Candidate	Number of Votes	Percentage of Votes (%)
- Abdelmadjid Tebboune	4.947.523	58.13
- Abdelkader Benqrina	1.744.836	17.37
- Ali Benflis	897.831	10.55
- Azeddine Mihoubi	619.225	7.28
- Abdelaziz Belaid	568.000	6.67
The number of registered voters (at home and abroad) is: 24.464.161	The number of voters who voted (inside the country and abroad) is: 9.755.340	The voter turnout rate (inside the country and abroad) is: 39.88

The early presidential elections held on 7 September 2024 were different. The competition was limited to three relatively inexperienced and unpopular candidates. This likely helped President Abdelmadjid Tebboune secure a second term in office relatively easily, as he won the election in the first round with 84.30% of the votes cast. However, this occurred amid continued voter abstention.

Although President Abdelmadjid Tebboune ran as an independent candidate in both presidential terms, he received support from political parties belonging to the national trend, primarily the National Liberation Front and the National Democratic Rally. He also received support from several civil society organisations, including the National Organisation of Mujahideen, the General Union

¹¹- Articles 247 and 248 of the organic law related to the electoral system, Official Gazette, No. 17, issued on 26 Rajab 1442 corresponding to March 10, 2021, p. 35.

¹²- Announcement No. 03/ of the Constitutional Council/19 dated 19 Rabi' al-Thani 1441H corresponding to December 16, 2019, includes the final results of the presidential election. Official Gazette, No. 78, dated 21 Rabi' al-Thani 1441H corresponding to December 18, 2019, p. 17.

of Algerian Farmers, the Organisation of Sons of Martyrs and the Organisation of Sons of Mujahideen.

Table 4: Results of the early presidential election of 7 September 2024¹³

Candidate	Number of Votes	Percentage of Votes (%)
- Abdelmadjid Tebboune	7.976.291	84.30
- abdelali hassani cherif	904.642	9.56
- youcef ouchich	580.495	6.14
The number of registered voters (inside the country and abroad) is: 24,351,551	The number of voters who voted (inside the country and abroad) is: 11.226.065	The voter turnout rate (inside the country and abroad) is 46.10 :

3. Legitimacy of the Prime Minister and Head of Government:

The Prime Minister is considered the second most important figure in the executive branch after the President of the Republic. They are tasked with leading the government and implementing its programme. In French legal terminology, he is referred to as *la clé de voûte*, meaning the keystone or pivotal element upon which executive action rests, and the key to success in governmental work. In practice, they share executive functions with the President, in addition to any powers that the President may delegate to them, in accordance with the constitution (Article 93).

In reality, the prime minister does not possess electoral legitimacy unless they are elected as a deputy in the National People's Assembly. Even in this case, being elected as a deputy does not imply that they have the legitimacy to hold the position of Prime Minister or Head of Government. In the semi-presidential system, democratic electoral legitimacy is exclusively held by the president and the National People's Assembly, who are both directly elected by the people.

3.1 Legitimacy of the Prime Minister:

According to the 2020 constitutional amendment, the Algerian Prime Minister derives their legitimacy from the President. The president selects him based on competence and loyalty, and he is responsible for executing the presidential programme, which reflects the president's commitment to fulfilling his promises to voters. In this context, Article 105 of the constitution states: 'If the legislative elections result in a presidential majority, the President of the Republic appoints a Prime Minister and entrusts them with proposing the formation of the government and preparing a work plan to implement the presidential programme, which they present to the Council of Ministers.'¹⁴ The significant impact of legislative election results is evident here; if the election outcomes favour the president and produce a party or coalition that supports the legislative majority, the president's control over the executive authority is inevitably strengthened, allowing him to appoint a prime minister from among his supporters.

In this scenario, the prime minister is completely dependent on the president, as his legitimacy stems from the president who appointed him. They are accountable to the president as well as being responsible to parliament. This constitutional and political tradition is not limited to Algeria; it is also observed in France. In this context, former French Prime Minister Jean-Pierre Raffarin stated:

¹³- Announcement No. 09/ of the Constitutional Court/24 dated 10 Rabi' al-Awwal 1446H corresponding to September 14, 2024, includes the final results of the presidential election. Official Gazette, No. 63, dated 11 Rabi' al-Awwal 1446H corresponding to September 14, 2024, p. 7.

¹⁴- Constitutional amendment 2020, previous source, p. 25.

‘I have always believed that the prime minister has no legitimacy other than that derived from the president.¹⁵’ French presidents during the Fifth Republic have consistently adhered to this tradition when the legislative and presidential majorities align.

However, while the Prime Minister’s legitimacy from the President is important, it is not enough on its own. Therefore, the prime minister and their government must also enjoy the confidence of the National People’s Assembly. The support of the National People’s Assembly and the Council of the Nation gives the Prime Minister and his government additional legitimacy, enabling them to implement the president’s political programme more easily.

3.2 The legitimacy of the Head of Government:

As stipulated in Articles 103 and 110 of the Constitution, the position of Head of Government is contingent upon the existence of a parliamentary majority. Article 103, in its second paragraph, states: ‘The government is led by a Head of Government if the legislative elections result in a parliamentary majority.’ Meanwhile, Article 110 states the following: ‘If the legislative elections result in a parliamentary majority that is not the presidential majority, the President of the Republic shall appoint a Head of Government from the parliamentary majority and shall charge them with forming their government and preparing the parliamentary majority’s programme.’¹⁶

It is noteworthy that the Algerian constitutional founder did not clearly specify the nature of this parliamentary majority in the aforementioned articles. However, it is expected that this parliamentary majority may differ from, be independent of, or even oppose the president.

This would occur if the President of the Republic and his party or the coalition he supports lost the legislative elections to another party or coalition that is different, independent, or even opposed to the President. This situation is referred to in constitutional law as ‘political cohabitation’ (cohabitation politique). Writer Daniel Bormo views political cohabitation as the ultimate form of dual executive power, where the president and head of government often compete against each other¹⁷. Irish researcher Robert Elgie defines political cohabitation as a situation in which the president belongs to one party and the prime minister to another, with the president’s party not represented in the government¹⁸.

This constitutional principle, introduced by the founder of the Algerian constitution, is also found in France, albeit in the form of an implicit and unwritten constitutional convention that has become entrenched in French political culture. Essentially, if the president loses the legislative elections, they also lose the right to appoint the prime minister to form the government, which is instead given to the legislative majority in the National Assembly. This occurred with President François Mitterrand in 1986, when his party (the Socialist Party) lost the legislative elections to the right-wing Rally for the Republic party, led by Jacques Chirac. Chirac was subsequently appointed Prime Minister at the request of the legislative majority in the National Assembly. The same situation arose again in 1993 when Mitterrand’s party lost the legislative elections, leading him to appoint Édouard Balladur as Prime Minister at Jacques Chirac’s request. Chirac was the leader of the party

¹⁵- Olivier Duhamel and Guillaume Tusseau; *Constitutional Law and Political Institutions*. Paris: Editions du Seuil, 5th edition, 2020, p. 942.

¹⁶- The Constitution, Official Gazette, previous source, pp. 25-26.

¹⁷- Daniel Bourmaud; *The Fifth Republics, Monarchy, Dyarchy, Polyarchy: Variations on Power under the Fifth Republics*. Review Powers, No. 99, 2001, p 10.

¹⁸- Robert Elgie; *Semi-presidentialism, Cohabitation, and the Collapse of Electoral Democracies, 1990–2008*. Government and Opposition, Vol. 45, No. 1, 2010, p. 30.

holding the legislative majority in the National Assembly. Political cohabitation occurred for the third time in 1997, when President Jacques Chirac appointed the left-wing leader Lionel Jospin as prime minister at the request of the left-wing majority in the National Assembly¹⁹.

4. The Powers of the Prime Minister as Head of Government and the Implementation of Public Policy:

The Prime Minister's powers consist of the authorities granted to him by the constitution to carry out his functions.

4.1 Powers of the Prime Minister and Head of Government According to the Situation:

As previously mentioned, the Prime Minister is appointed when legislative elections result in a presidential majority, meaning the president's party or coalition won the elections, as stipulated in the constitution. In such cases, it is expected that the Prime Minister will be an ally of the President, sharing the same political and ideological orientation. This helps to build trust between the two heads of the executive branch.

The Prime Minister holds a fundamental position in the executive branch as the Constitution assigns them the task of proposing government members to the President of the Republic for appointment (Article 104). It can be assumed that ministers are selected and appointed through negotiation, or at least that the Prime Minister can appoint some of his supporters to certain ministries. The Prime Minister also leads the government and prepares its work plan to implement the president's political programme, which is presented to the Council of Ministers and then to Parliament (Article 106).

In the case of the Head of Government, there is some ambiguity surrounding the appointment of ministers. It is generally accepted that the legislative majority to which the Head of Government belongs proposes ministers for appointment by the president, except for the Ministers of National Defence and Foreign Affairs, as these portfolios are exclusively reserved for the president according to Article 91 of the constitution. This means that the legislative majority and the Head of Government negotiate the distribution of ministerial portfolios and agree on the political figures to occupy them.

The constitution also requires the Prime Minister or Head of Government to present an annual statement of public policy to Parliament. Additionally, the Prime Minister or Head of Government exercises several other powers that enable them to lead the Council of Government. These powers include:

1. Directing, coordinating and monitoring government work.
2. Distributing powers among government members in accordance with constitutional provisions.
3. Implementing laws and regulations.
4. Chairing government meetings.
5. Signing executive decrees.
6. Appointing civil state officials who are not appointed by the president or whose appointment has been delegated to the chairperson.
7. Ensuring the proper functioning of public administration and services.

¹⁹- Georges Vedel, Variations and Cohabitation. Powers, No. 83, 1997, pp. 100-129.

8. The Prime Minister, as applicable, may present the government's resignation to the President of the Republic²⁰.

As the Prime Minister is appointed by the President from among his close allies, it is highly likely that he will enjoy the President's trust. Thus, the President can delegate some of their powers to the Prime Minister within the framework permitted by the Constitution (Article 93). While the constitution does not explicitly prohibit the president from delegating his powers to the Head of Government, it is politically improbable that he would do so, especially if the Head of Government does not belong to his party. This situation undermines trust between the two heads of the executive and leaves open the possibility of disagreement regarding appointments and policies. The only circumstance in which the President may delegate their constitutional powers to the Head of Government is in the event of illness, in order to prevent disruption to the functioning of state institutions.

4.2 Implementation of public policy in cases of agreement or disagreement between the majorities:

The way the semi-presidential system functions is influenced by the outcomes of the electoral process, particularly with regard to the implementation of public policy. If the legislative majority aligns with the presidential majority, the president can implement their political programme. Conversely, if the elections produce a majority that opposes the president's political and ideological orientation, the parliamentary majority will select the Head of Government, who will oversee the implementation of their political programme.

4.2.1 Implementation of Public Policy in Cases of Agreement Between the Majorities:

The two majorities align when presidential and legislative elections are held close together, within two months at most (as in France, for example), to avoid sudden changes in voter preferences. If voters elect a president from the national trend, it is likely that a legislative majority from the same political family — i.e. from national trend parties — will also be elected. However, it is also possible for a new president from the national trend to be elected while both parliamentary chambers are dominated by political parties from the same trend. This occurred when Abdelmadjid Tebboune was elected president on 12 December 2019 (see Table 3).

As can be seen in Table 1, no party won an absolute majority of seats in the legislative elections held on 4 May 2017. Despite their possession of an absolute majority, a cohesive legislative majority did not form between the two national trend parties (the National Liberation Front and the National Democratic Rally). This enabled the elected president, Abdelmadjid Tebboune, to appoint Abdelaziz Djerad as prime minister from 2019 to 2021, as stipulated by the constitution. The president then conducted a cabinet reshuffle, appointing Aymen Benabderrahmane as Prime Minister. Benabderrahmane had previously served as Minister of Finance in Abdelaziz Djerad's government and remained in this position until 11 November 2023. He was succeeded in this role by the president's advisor for diplomatic affairs, Nadhir Arbaoui, on 11 November 2023.

Following the formation of the government, the Prime Minister prepares a work plan to implement the president's programme, as stipulated in Article 105 of the constitution. This plan is then

²⁰- Article 112 of the constitutional amendment 2020, previous source, pp. 26-27.

presented by the president to the Council of Ministers for review and approval. The prime minister then submits the work plan to the National People's Assembly for approval. A general discussion regarding the presented work plan then takes place in the National People's Assembly. Members of parliament and parliamentary groups may propose new suggestions or request partial amendments to the government's work plan, or the repeal of certain elements of it.

In this case, based on the deputies' general discussion of the content of the government's work plan, the Prime Minister must adapt the work plan in consultation with the President of the Republic (according to Article 106 of the Constitution). Subsequently, the Prime Minister must present the government's work plan to the Council of the Nation (the upper house of parliament) in the form approved by the National People's Assembly. The Council of the Nation cannot impose amendments or request additional items for inclusion in the work plan. Instead, it can issue a recommendation containing non-binding proposals for the government on issues related to the public good. Following parliamentary approval, the Prime Minister is responsible for implementing the ratified work plan in coordination with various ministerial sectors.

Parliamentary approval, particularly from the lower house (the National People's Assembly), requires a legislative majority in favour of the president's and Prime Minister's policies. According to Article 107 of the Constitution, the National People's Assembly may refuse to approve the government's work plan. If this happens, the Prime Minister must submit his government's resignation to the President of the Republic. The President then appoints another Prime Minister in the same manner. The new prime minister must present the government's work plan to the National People's Assembly. However, if the National People's Assembly does not approve it, the government falls and the president must dissolve it according to Article 108. The ousted prime minister and their government (now acting in a caretaker capacity) continue to manage ordinary public affairs until a new National People's Assembly is elected within three months.

This constitutional mechanism, adopted by the founder of the Algerian constitution, is referred to as a restriction or moderation of parliament's power to indirectly dismiss the government by failing to approve its work plan. However, it is highly unlikely that the National People's Assembly will resort to this constitutional mechanism, given that President Abdelmadjid Tebboune enjoys the support of an absolute majority of deputies in both chambers of parliament. Furthermore, deputies in the National People's Assembly have the right to amend legislative proposals, helping to prevent conflicts and disputes between the government and the legislative institution. Indeed, the governments of Prime Ministers Abdelaziz Djerad, Aymen Benabderrahmane and Nadir Larbaoui secured the National People's Assembly's approval without major issues, contributing to governmental stability and continuity in law and project implementation.

Furthermore, parliamentary majorities are crucial for government stability and support, especially when the opposition uses the motion of censure mechanism in the National People's Assembly, the strongest constitutional mechanism against the prime minister and their government, during the presentation of the public policy statement. According to Article 111 of the constitution, the Prime Minister must present an annual report on the government's achievements, referred to by the constitutional founder as the public policy statement. Following this presentation, there is a general discussion within the National People's Assembly. If the government's performance is deemed weak or negative, deputies (equivalent to 59 deputies according to Article 161 of the constitution) can file a request for a motion of censure with the office of the National People's Assembly. The vote on the motion of censure occurs three days after the request is filed. If the motion of censure

is approved by a two-thirds majority of deputies (272 deputies), the Prime Minister must submit his government's resignation to the President of the Republic (according to Article 162 of the constitution).

Another situation is the vote of confidence, in which the Prime Minister or Head of Government can request a vote of confidence from the National People's Assembly on his government and its political programme during the presentation of the public policy statement. This constitutional mechanism is a true test of the government's support from the legislative majority and is invoked when significant debate arises in Parliament concerning the government's public policy statement. If the vote of confidence is positive and the government secures an absolute majority, the Prime Minister or Head of Government's position is enhanced.

Conversely, if two-thirds of the National People's Assembly votes to withdraw confidence from the Prime Minister or Head of Government, the latter must resign to the President of the Republic. The Constitution provides the President with two options. The first is to accept the resignation and appoint a new Prime Minister or Head of Government. The second is to convene the entire National People's Assembly before accepting the resignation, in accordance with Article 151 of the Constitution. This second option is considered a means of counteracting the legislative majority.

However, this scenario is unlikely in Algeria for several reasons. Firstly, the president and the political parties, particularly the national trend parties, have coherent political programmes. Secondly, opposition parties are weak in parliament, having few deputies, and they disagree on a clear political programme due to their ideological contradictions. Thirdly, the legislative majority supporting the president and his government all belong to the national trend family. This makes it a cohesive and stable majority on which the president and his government can rely to ratify their decisions.

4.2.2 Implementation of Public Policy in Cases of Disagreement Between the Majorities:

In reality, Algeria has never experienced a situation of disagreement between presidential and legislative majorities since the establishment of multipartyism, which is known as a case of political cohabitation, as previously mentioned. However, this scenario remains a plausible possibility, if only theoretically. Experiences from countries that have adopted the semi-presidential system for decades, such as France, Portugal, and Taiwan, demonstrate that cohabitation situations occur when a new president is elected alongside an existing legislative majority or when the president dissolves parliament, resulting in early legislative elections that yield an opposing majority.

According to writers Francis Ampon and Michel Troper, in a potential political cohabitation scenario, the functioning of public authorities would resemble that of a classical parliamentary system, such as the British or German systems. In such a system, the Head of Government relies on the parliamentary majority and becomes the true political leader of the country. Parliament then legislates according to the political programme defined by the Head of Government. The Head of Government embodies the continuity of the state, but does not determine the main orientations of national policy²¹. However, this depends on having a homogeneous, disciplined and stable majority that is entirely submissive to the Head of Government.

In Algeria's case, the Head of Government must have a majority in the National People's Assembly. The parliamentary majority can take several forms. It can be a cohesive and continuous

²¹- Francis Hamon and Michel Troper, *Constitutional Law*. Paris: LGDJ, 35th edition, 2014, p. 418.

parliamentary majority throughout the legislative term if its members belong to a single parliamentary party and adhere to voting discipline. Alternatively, the parliamentary majority can be fragile and prone to fragmentation if its members belong to several politically heterogeneous parties and do not adhere to voting discipline. The latter leads to unstable and ineffective governments when it comes to managing public affairs, necessitating presidential intervention to decide on the dismissal of the Head of Government or the dissolution of the National People's Assembly.

In fact, the constitutional founder organised this scenario in anticipation of its occurrence. Article 110 of the constitution states the following: 'If the legislative elections result in a parliamentary majority that is not the presidential majority, the President of the Republic shall appoint a Head of Government from the parliamentary majority and shall charge him with forming his government and preparing the programme for the parliamentary majority.'²² In other words, if the legislative elections yield a majority that is different from, or opposed to, the presidential majority — and thus opposed to the president — the president must appoint a Head of Government proposed by the newly elected legislative majority. The Head of Government then begins preparing the programme for the new legislative majority.

However, national defence and foreign policy are reserved for the president, according to Article 91 of the Constitution. The first paragraph affirms the president as commander-in-chief of the armed forces and responsible for national defence. The third paragraph indicates that the president decides and directs the nation's foreign policy. Article 92, paragraph 2, also states that the president appoints to civilian and military positions.

Article 91, paragraph 2 states that the president may decide to deploy units of the People's National Army abroad, but this authority is subject to the approval of two-thirds of the members of both parliamentary chambers. Additionally, parliament, and thus the majority within it, plays a pivotal role in explicitly approving agreements concluded by the president, according to Article 102(3) of the Constitution. This highlights the importance of the parliamentary majority in enhancing or limiting the president's authority.

According to the emergency procedure outlined in Article 119 of the constitution, if the Prime Minister requires parliamentary approval for certain legislative proposals, the Head of Government must also request that the President legislates by special order on urgent matters, or during a vacancy in the National People's Assembly or parliamentary recess (as per Article 142 of the constitution). Therefore, open dialogue, negotiation and mutual trust between the president and the parliamentary majority are essential for the effective operation of political institutions and for preventing potential disputes between the executive and legislative branches. Disputes between the president and the parliamentary majority can lead to institutional stagnation, disrupting the normal functioning of both branches. In extreme cases, the president may dissolve the National People's Assembly, as has occurred in many Eastern and Central European countries.

Conclusion:

The preceding analyses suggest that the Algerian constitution, as amended on 1 November 2020, has strengthened the president's authority over the prime minister or head of government, and to a lesser extent over parliament, particularly the National People's Assembly. Conversely, this

²²- Constitutional amendment 2020, previous source, p. 26.

constitutional design has introduced a new political tradition: the constitutionalisation of political cohabitation. Should opposition parties emerge — or at least political parties whose programmes differ from the president's — they have the right to propose a Head of Government to implement their programme. The constitutional founder's acknowledgement of political cohabitation can be considered a significant constitutional and political development, at least theoretically.

Our research has led us to several conclusions, which can be summarised as follows:

Firstly, the Prime Minister merely assists and is subordinate to the president, coordinating government members to implement the president's political programme. In contrast, the Head of Government is less dependent on the president and is more aligned with the parliamentary majority that endorsed and tasked them with implementing its political programme.

Secondly, although constitutional guarantees allow an opposition majority to form a government and implement its political programme, the adoption of a proportional representation system and contradictions between political parties make it very unlikely that a parliamentary majority will emerge against the president's policies. However, this is not impossible, particularly if the president dissolves the National People's Assembly without considering shifting public opinion in favour of opposition parties, resulting in early legislative elections being won by an opposing party or coalition.

Thirdly, while the Head of Government is constitutionally obliged to implement the programme of the parliamentary majority, the President has the right to dismiss them from office. This could lead to conflicts and disputes between the president and the parliamentary majority, potentially forcing the president to dissolve parliament.

Fourthly, competition between the president and the prime minister or head of government is a very plausible scenario in the Algerian semi-presidential system. Additionally, conflicts arising between the president and an opposing parliamentary majority regarding appointments and policies could hinder political functioning between the executive and legislative branches, ultimately increasing governmental instability. Therefore, coordination and negotiation between the two branches become essential to avoid such disruptions.

List of Sources and References:

1. Sources:

A. Constitutions:

Constitution of the People's Democratic Republic of Algeria of 1996, dated December 7, 1996, amended and supplemented by Presidential Decree No. 20/442, dated December 30, 2020, Official Gazette of the People's Democratic Republic of Algeria(J.R.A.A.), No. 82, issued December 30, 2020.

B. Laws:

Ordinance No. 21/01 of 26 Rajab 1442, corresponding to March 10, 2021, concerning the Organic Law relating to the electoral system, *Official Gazette of the People's Democratic Republic of Algeria(J.R.A.A.), No. 17.

Official Announcements Related to Elections:

Announcement No. 09/ of the Constitutional Court/ 24 of 10 Rabi' al-Awwal 1446 Hijri, corresponding to September 14, 2024 CE, containing the final results of the presidential election. Official Gazette of the People's Democratic Republic of Algeria, No. 63, dated 11 Rabi' al-Awwal 1446 Hijri, corresponding to September 14, 2024 CE.

Announcement No. 03/ of the Constitutional Council/ 19 of 19 Rabi' al-Thani 1441 Hijri, corresponding to December 16, 2019 CE, containing the final results of the presidential election. Official Gazette of the People's Democratic Republic of Algeria, No. 78, dated 21 Rabi' al-Thani 1441 Hijri, corresponding to December 18, 2019 CE.

Announcement No. 01/ of the Constitutional Council, dated 21 Sha'ban 1438 Hijri, corresponding to May 18, 2017 CE, containing the final results of the election of members of the National People's Assembly. Official Gazette of the People's Democratic Republic of Algeria, No. 34, issued 12 Ramadan 1438 Hijri, corresponding to June 7, 2017 CE.

Announcement No. 01/ of the Constitutional Council, dated 12 Dhu al-Qi'dah 1442 Hijri, corresponding to June 23, 2021 CE, containing the final results of the election of members of the National People's Assembly. Official Gazette of the People's Democratic Republic of Algeria, No. 51, issued 18 Dhu al-Qi'dah 1442 Hijri, corresponding to June 29, 2021 CE.

2. Books:

Abdelkader Mouchri, Contemporary Semi-Presidential Systems: A Comparative Analysis. Beirut: Dar Al Nahda Al Arabiya, 1st edition, 2020.

Maurice Duverger, Political Institutions and Constitutional Law: Major Political Systems. Translated by Georges Saad. Beirut: Al Mu'assasa al-Jami'iya lil-Dirasat wal-Nashr, 1st edition, 1992.

References in Foreign Languages:

A. Books:

1. Francis Hamon and Michel Troper, Droit Constitutionnel. Paris: LGDJ, 35th edition, 2014.
2. Daniel Bourmaud, Les V e s Républiques, Monarchie, Dyarchie, Polyarchie: Variations autour du pouvoir sous la V républiques. Revue Pouvoirs, N 99, 2001.
3. David J. Samuels and Matthew Shugart, La Nomination et la révocation du Premier Ministre en Régime Semi-Présidentiel: L'impact de la Présidentialisation des Partis Politiques. Revue Internationale de Politique Comparée. Vol. 17, N 1, 2010.
4. Olivier Duhamel and Guillaume Tusseau, Droit Constitutionnel et Institutions Politiques. Paris: Editions du Seuil, Fifth edition, 2020.

B. Articles:

1. Georges Vedel, Variations et cohabitations. Pouvoirs, N 83, 1997, p: 100-129.
2. Jean Massot, L'immuable prépondérance de l'exécutif à travers une dyarchie hiérarchisée survivra-t-elle à une vingt-cinquième révision constitutionnelle ? Revue internationale de droit comparé. Vol. 70 N°4, 2018.
3. Pierres Avril, Le chef de l'Etat et la notion de la majorité présidentielle. Revue française de science politique, 34^e année, n°4-5, 1984.

4. Robert Elgie, Semi-presidentialism, Cohabitation and the Collapse of Electoral Democracies, 1990–2008. *Government and Opposition*, Vol. 45, No. 1, 2010.

5. Maurice Duverger, A New Political System Model: Semi-Presidential Government. *European Journal of Political Research*, N 8 (1980), p: 166.