

# THE INTERNAL REGULATIONS OF THE COUNCIL OF THE NATION OF 2017: A STUDY OF THE CONCEPT AND CONTENT

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## Abstract

*This study addresses the concept and content of the Internal Regulations of the Council of the Nation for the year 2017, focusing on the central issue of what constitutes the internal regulations of the Council of the Nation and the key provisions it contains and regulates. By reviewing the main aspects related to internal regulations in general and concentrating on the most traditionally included matters, the study also highlights the most important innovations introduced in line with the 2016 constitutional amendment, whether in terms of procedures, the bodies and committees constituting the Council of the Nation, or matters concerning members, including their affiliations within the council, their rights, privileges, and duties. An analytical approach was adopted, which involves presenting and analyzing the texts of the internal regulations of the Council of the Nation for the year 2017, enabling members of the Council to easily refer to them. Additionally, the study proposes certain mechanisms that enable members of the Council to perform their roles effectively, with a particular focus on the provision of independent expert committees composed of specialists from various fields to support them in preparing their work and reports.*

**Keywords:** Internal regulations, Council of the Nation, 2016 constitutional amendment, rights and privileges of Council members, independent expert committees.

## I- INTRODUCTION:

Parliamentary law is considered part of constitutional law, which addresses the rules governing the organization of parliamentary assemblies in terms of their formation, composition, competencies, and procedural systems. These rules apply to their members, staff, visitors, the government, and other councils in relation to parliament, regardless of the nature of these rules (constitutional, organic, legal), whether written or unwritten. The sources of parliamentary law are diverse, especially the written ones, including the constitution, organic laws, and statutes. What distinguishes parliamentary law is its unique internal regulations for parliament, which hold a special place among its sources and are constitutionally stipulated.

Since the 1996 Constitution, the Algerian Parliament has consisted of two chambers: the National People's Assembly and the Council of the Nation. These two chambers are nearly identical in terms of tasks and competencies but differ in structure, composition, and nature. The similarities and differences are both highlighted. The constitutional legislator in the second paragraph of Article 132 of the 2016 constitutional amendment states, "The National People's Assembly and the Council of the Nation shall draft their internal regulations and approve them."

From this point, the importance of the internal regulations of the two chambers of parliament becomes evident, as they are the essential tools for organizing the smooth functioning of parliamentary work and for regulating and codifying relationships between political actors. The internal regulations define duties, outline violations, and establish penalties for them.

The National People's Assembly established its internal regulations in 1997 and amended them in 2000. Since then, no further revisions have been made. As for the Council of the Nation, it set its regulations in 1999, which were amended in 2000. The review of the internal regulations of the Council of the Nation in 2017 ([Internal Regulations of the National Council, 2017](#)) responded to

the 2016 constitutional amendments, aiming to introduce fundamental reforms through a comprehensive and insightful vision aspiring to advance and elevate the parliamentary system.

This study aims to understand the nature of internal regulations, their legal status, highlight their importance, explore the procedures for issuing them, and examine their legal rank. Additionally, it will review the contents of the internal regulations document of the Council of the Nation from 2017, by studying issues related to the council and its members, and assess the impact of these internal regulations on parliamentary work within the Council of the Nation. It will also examine the extent to which members can fulfill their duties under the best conditions and in a democratic environment.

### **Study Problem:**

In light of the above, the central question of this study revolves around the following inquiry:

**What constitutes the internal regulations of the Council of the Nation, and what are the most important specific issues contained therein that it regulates?**

To study this topic and answer the posed question, we will primarily rely on the analytical approach, which involves presenting and analyzing the texts of the internal regulations of the Council of the Nation from 2017. We will address the subject through two sections: the first will be dedicated to the general aspects related to internal regulations, while the second will focus on the content of the internal regulations document of the Council of the Nation.

## **I. 1. General Aspects Related to the Internal Regulations:**

### **I. 1.1. Definition of Internal Regulations and Their Importance:**

#### **I. 1.1.1 Definition of Internal Regulations:**

The internal rules are defined as "the autonomous law that the parliament implicitly undertakes to respect" ([Rabat, 1971, p. 728](#)), and are also known as "a set of procedures and mechanisms governing the work of the parliamentary council, along with all the controls and rules that enable it to exercise the powers granted to it by the constitution and organize them" ([Al-Tabtabai, 1985, p. 201](#)). In addition, the internal rules are described as "a set of written legal rules of a specific nature, unilaterally established by either of the two chambers of parliament to be applied internally, which include the formation of its structures, bodies, and functions, and aim to regulate the procedures of operation to perform its constitutional duties" ([Shmaleh, 2018, p. 37](#)).

Despite the multiple definitions of internal rules, they all essentially converge on the idea that the internal rules constitute a legal system intertwined with political aspects. It is composed of a set of rules, methods, practices, and parliamentary traditions adopted to manage legislative bodies and establish their working methods in a predetermined and precise manner, all of which aim to ensure the democratic nature of parliamentary proceedings.

In summary, the internal rules consist of legal texts, as they include approved and binding legal rules. However, these are legal texts of a special nature. They are not legislative texts issued by parliament but rather decisions or internal regulations prepared and approved by the legislative councils themselves, committing to their application. The government plays no role in their establishment. Furthermore, these rules enjoy a degree of independence from general regulations and embody a form of continuity and permanence despite the alternation and variation of systems. This continuity is manifested in the repeated application of the provisions of internal rules to successive legislative councils, as exemplified by the internal rules of the National People's Assembly from 2000, which remain in effect despite two constitutional amendments in 2016 and 2020. Although there are many deficiencies, gaps, and issues related to practice, these rules, unfortunately, have not been amended to this day.

**I. 1.1.2 Importance of Internal Rules:**

- The internal rules facilitate the parliament's decision-making and conduct of its deliberations according to clear and precise procedures, particularly in parliaments composed of a large number of individuals affiliated with various political currents.
- The internal rules allow the parliament to avoid chaos in discussions among deputies within the council by specifying the methods of speaking, debating, and voting, thereby eliminating any chances of disorganized and random debates and discussions.
- They clarify, refine, and detail the constitutional and legislative rules related to the legislative council.
- The internal rules of parliament are considered an extension of the constitutional framework and the governing rules of the political system as a whole. They play a significant role in structuring political life and guiding the balance of the adopted constitutional system by limiting the powers of both the executive and legislative branches, especially since the constitutional provisions are not sufficiently precise and leave ample room for interpretation and completion through internal rules.

**II– Methods and Materials:****II. 1. Methods of Issuing Internal Rules or Parliamentary Regulations and Their Legal Status:****II. 1.1 Methods of Issuing Internal Rules:**

The methods of issuing internal regulations vary, and in general, it can be said that there are three methods for their issuance (Fekry, 2006, p. 18).

**II. 1.1.1 Issuing Internal Rules by Law:**

In this case, the internal rules take the form of legislation and go through the same stages as any other legislative process, including proposal, discussion, voting, approval, issuance, and publication in the official gazette. They are subject to constitutional review, like other laws. Examples of constitutions that follow this model include:

- The Yemeni Constitution of 1991, amended in 2015, which states in Article 67: "The House of Representatives shall establish its internal regulations, including the procedures for its operations, its committees, and the exercise of all its powers. The regulations shall not contain provisions that contradict or amend the constitution, and they shall be issued and amended by law."
- The Egyptian Constitution of 2014, which stipulates in Article 117: "The House of Representatives shall establish its internal regulations to organize its operations and the manner in which it exercises its powers, and to maintain order within it. The regulations shall be issued by law."

**II. 1.1.2 The Parliament Independently Establishes Its Internal Rules, but They Are Not Enforced Until Their Constitutionality Is Verified:**

Examples of such systems include:

- The French system under the 1958 Constitution, where Article 61 states: "Organic laws before their promulgation, and the regulations of the two Houses of Parliament before to their implementation, as well as the proposed legislation mentioned in Article 11 before they are put to a vote, must be presented to the Constitutional Council, which decides on their constitutionality..."
- The 2016 Constitutional Amendment in Algeria, which in Article 132, final paragraph, states: "The People's National Assembly and the Council of the Nation shall each establish their internal regulations and approve them." Similarly, in Article 186, final paragraph, it is stated: "The Constitutional Council shall rule on the conformity of the internal regulations of each House of Parliament with the constitution according to the procedures outlined in the previous paragraph."

**II. 1.1.3 Issuance of the Regulations by a Decision of the Parliament:**

This method aligns with the traditions of democratic governance, where each legislative council has the right to establish its internal regulations and amend them through its own decision, issued independently without government intervention. This method emphasizes the principle of parliamentary independence by granting members the freedom to issue and amend their internal regulations. An example is the Belgian Constitution, where Article 60 states: "The council shall determine, based on its regulations, the manner in which it exercises its functions."

## II. 1.2 The Legal Status of the Internal Rules:

The constitution is regarded as the supreme law in the state, a principle accepted in all countries. It occupies the highest position in the hierarchy of legal norms within any state, as it supersedes all other existing legal standards, including internal rules. This superiority is demonstrated by several factors: the preamble of internal rules refers to the constitution as its primary and direct source, and the concept of constitutional review of internal rules is well established. In addition, the internal rules rank below organic laws and laws that express the sovereignty of the people, as these laws organize the state and society and are approved by members of parliament. The submission of internal rules to constitutional oversight was assigned to organic laws and laws, meaning that the review is no longer limited to compliance with constitutional provisions alone but also extends to cover all organic laws and laws. The Constitutional Council affirmed this in its judgement No. 09, issued November 22, 1999, concerning the constitutional review of the amended and supplemented internal rules of the Council of the Nation, according to a request made by the Republic's President ([Opinion No. 09, 1999, p. 29](#)).

## II. 1.3 Submission of Internal Rules to Constitutional Review:

Constitutions typically include provisions concerning the internal rules of both chambers of parliament, delegating to these chambers the task of preparing their internal regulations. This is reflected in Article 132, paragraph 2, of the 2016 Constitutional Amendment, which states that both the People's National Assembly and the Council of the Nation shall establish their internal rules and approve them. These internal rules are subject to constitutional review, ensuring their compliance with the constitution and with organic laws, particularly the organic law that regulates the functioning of the two chambers of parliament and their functional relationships with the government. This is due to the fact that these internal rules are an extension of the constitutional framework and the legislative rules that derive from it and are related to both chambers of parliament. Such oversight unequivocally confirms the supremacy of the constitution and organic laws over internal rules, even though the two sets of regulations are complementary in defining the functions of parliament.

The internal rules of both chambers of parliament are subject to a conformity review before they come into effect. These rules are not considered valid unless they strictly conform to the provisions of the constitution, both in letter and in spirit, meaning that adherence to the constitution must be precise. From this perspective, the People's National Assembly and the Council of the Nation must ensure that their internal rules comply with constitutional principles during their preparation. This review is characterized by its strict and rigorous nature, focusing on both form and substance. Parliament's role is limited to adhering explicitly to what has been authorized by the constitution, both in letter and spirit, and ensuring that the terminology and appropriate expressions are consistent ([Bouleshaer, 2012, p. 69](#)), ([Opinion No. 02/R.N.D/M.D/17, 2017](#)).<sup>1</sup> This

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1- The Rules of Procedure of the National People's Assembly stipulated that draft laws are to be submitted to the Assembly's Bureau by the government, contrary to the constitutional provision requiring their submission by the Prime Minister. Consequently, this provision was deemed unconstitutional, and it was amended to align with the constitutional requirement. This is referenced in Opinion No. 03/R.N.D/M.D/97, dated July 31, 1997, concerning the review of the conformity of the Rules of Procedure of the National People's Assembly with the Constitution.

prevents either chamber from independently overstepping its bounds and imposing such actions on others, whether it be the other chamber or the government.

The constitutional legislator has entrusted the President of the Republic with the authority to refer the internal rules of parliament to the Constitutional Council for review to ensure their conformity with the constitution ([Article 186, Paragraphs 3 and 4 , 2016](#)). This review must be mandatory and conducted before the internal rules come into effect, primarily because of the direct impact these rules could have on the stability of parliament if they are annulled at any moment after being applied due to non-conformity with the constitution. The purpose of subjecting the internal rules of both chambers of parliament to prior review by the Constitutional Council is to clearly define the boundaries within which parliament exercises its legislative and oversight functions ([Chareet, 2013, p. 13](#)).

The conformity review of parliament's internal rules has positive implications for the work and seriousness of its members in drafting these rules, as it deepens the discussion on the internal rules and ensures that they are consistent with the constitution and other complementary, superior texts. This process strengthens the rule of law, upholds the supremacy of the constitution, and promotes democratic discipline among the people's representatives by ensuring their respect for the constitutional framework.

### **III. Content of the Internal Rules of the Council of the Nation:**

The study of the content of the internal rules generally revolves around two fundamental points: matters related to the council and matters related to its members. Before addressing these, we will briefly review the parliamentary mandate and legislative sessions as stipulated in the constitution. Following this, the focus will be on structural aspects and members through the internal rules of the Council of the Nation from 2017, which is the latest set of rules established in accordance with the 2016 constitutional amendment.

#### **III. 1. Parliamentary Mandate and Legislative Sessions:**

The parliamentary mandate is the full legal term during which a member of parliament exercises manifestations of popular sovereignty as a representative of the people's will ([Linda, 2021, p. 60](#)). The constitutional legislator has set the parliamentary mandate six years, which is longer than the five-year tenure for People's National Assembly members, for the Council of the Nation. The legislative mandate may only be extended under really grave circumstances. that prevent the holding of regular elections, such as war, a significant threat, or any other reason specified by the constitution. A legislative session, on the other hand, is the annual time frame that organizes the parliamentary work and ensures the continuity of the legislative body's meetings. There are two types of sessions: regular and extraordinary. The 2016 constitutional amendment adopted the system of a single regular session lasting ten months, starting on the second working day of September. The Prime Minister may solicit an extension of the normal session for several days to finalize the consideration of an agenda item. The parliament may summon an extraordinary session at the behest of the President of the Republic, upon a request from the Prime Minister, or by a petition by two-thirds (2/3) of the members of the People's National Assembly. The extraordinary session terminates after the parliament has completed the agenda for which it was assembled ([Article 135, Paragraphs 3 and 4 , 2016](#)).

From the above, we observe that the Algerian constitutional legislator granted the authority for People's National Assembly members to request an extraordinary session without the involvement of the Council of the Nation. The ability to call for these sessions is distributed among several authorities to prevent monopolization of this power. The convening of an extraordinary session depends on whether the matters on the agenda fall within the competencies of parliament or one of its chambers.



### III. 1.1. Organizational Structure:

In examining the organizational structure of the Council of the Nation through its internal rules from 2017, we find that it is divided into bodies and entities. We will detail these as follows:

#### III. 1.1.1 Bodies and Entities of the Council of the Nation:

##### III. A. President of the National Council:

The President of the Council of the Nation has a pivotal role, ranking as the second most powerful official in the state, subordinate only to the President of the Republic. Upon a presidential vacancy for circumstances delineated in the constitution, the President of the Council of the Nation takes the position of acting President. Additionally, the President is the leader of parliamentary operations and serves as a wise figure working to maintain order within the council while mediating between the various political formations represented in the council, including the appointed members ([Linda, 2021, p. 113](#)).

The President of the Council of the Nation is chosen by fellow members after each partial renewal of the council, which takes place every three years. The election occurs during the first session of the new parliamentary term, scheduled on the fifteenth day after the Constitutional Council's announcement of the Council of the Nation members' election results. The first session is presided over by a provisional bureau consisting of the eldest member and the two youngest members, until the President of the Council of the Nation is chosen. The election is executed in compliance with Article 5 of the 2017 Internal Rules of the Council of the Nation. In the event of many candidates, voting occurs by secret ballot, and the candidate securing an absolute majority of the votes is proclaimed the victor. If no candidate obtains an absolute majority, a second round occurs within a maximum of twenty-four (24) hours, including the top two candidates from the first round. The candidate with the relative majority, defined as the highest vote count, is proclaimed the victor; in the event of a tie, the elder candidate prevails. If only one candidate exists, the election is held by secret ballot or a show of hands, and the candidate is proclaimed the victor upon securing a majority of the votes ([Article 5 of Internal Regulations of the National Council, 2017](#)).

In the event of a vacancy in the position of the President of the Council of the Nation, as outlined in Article 6 of the Internal Rules, due to resignation, incompatibility, legal impediment, or death, a new President is elected following the same procedures set forth in Article 5. This election must take place within a maximum of 15 days from the date the vacancy is announced. The Coordination Body convenes at the invitation of the council's bureau to confirm the vacancy, which is formalized by a resolution approved by the majority of the members present in a general session. The bureau then informs the relevant authorities, and the election is overseen by the oldest Vice President, assisted by the two youngest members of the Council of the Nation, provided they are not candidates ([Article 06 of Internal Regulations of the National Council, 2017](#)).

The Council of the Nation's internal regulations govern all matters pertaining to the Council of the Nation President, including his competencies and duties, as follows:

- Overseeing the implementation of the internal rules and ensuring their respect.
- Representing the Council of the Nation both nationally and internationally.
- Ensuring security and order within the premises of the council.
- Presiding over the sessions of the Council of the Nation, meetings of the bureau, and meetings of the Presidents' Body and the Coordination Body, as well as managing its discussions and deliberations.
- Assigning tasks to the vice presidents when necessary.
- Appointing individuals to administrative and technical positions by decree.

- Preparing the draft budget of the council and presenting it to the bureau.
- Acting as the authorizing officer for expenditures.
- Organizing the administrative, financial, and technical departments of the council.
- Ensuring the provision of the necessary material and human resources for the members' work.
- For a maximum of 45 days, the President of the Council of the Nation is responsible for serving as the head of state in the event that the President of the Republic is declared unable to perform his duties due to a serious and chronic illness.
- In the case of a permanent vacancy in the Council of the Nation, the President of the Council of the Nation will act as the head of state for a maximum of ninety days, due to the resignation or death of the President of the Republic. In this case, the President of the Council of the Nation is not permitted to run for the presidency, as stipulated by Article 102 of the 2016 Constitutional Amendment.
- In the case that a presidential candidate in the second round of elections passes away or is unable to run because of a legal barrier, the President of the Council of the Nation assumes the role of head of state, remaining in office until the President-elect takes the oath.
- As the head of state, the President of the Council of the Nation is bestowed with all the authority required in the event of war (barring the president's resignation, death, or any other calamity).
- If the President of the Republic wishes to dissolve the People's National Assembly, he must first confer with the President of the Council of the Nation ([Article 147 of the 2016 Constitutional Amendment, 2016](#)).
- The President of the Republic must also consult the President of the Council of the Nation before declaring a state of emergency, a state of siege, a state of exception, general mobilization, or a state of war.
- The President of the Council of the Nation has the authority to notify the Constitutional Council in accordance with Article 187 of the 2016 Constitutional Amendment.

### III. B. Bureau of the Council of the Nation:

The bureau is the administrative body responsible for managing the Council of the Nation and its work. It is an essential structure that has a significant impact on the functioning of the Council. The bureau is composed of the President and five Vice Presidents, who are elected for a one-year term, renewable ([Article 10 of Internal Regulations of the National Council, 2017](#)). Representatives of the parliamentary groups meet, upon invitation by the President of the Council of the Nation, to agree on the distribution of the Vice President positions among the parliamentary groups based on proportional representation. The list is then presented to the council in a general session for approval. In the event of disagreement or failure to approve the list, a unified list of Vice Presidents is prepared by the parliamentary groups, following criteria agreed upon by the groups wishing to participate in the bureau. This list is then presented to the Council of the Nation in a general session for approval.

If an agreement cannot be reached, the Vice Presidents are elected through a secret multi-candidate ballot in a single round. In the event of a tie, the oldest candidate is declared the winner. Should a Vice President position become vacant, it is filled according to the same procedures ([Article 11 of Internal Regulations of the National Council, 2017](#)).

The internal rules of the Council of the Nation elaborate extensively on the bureau's competencies due to its importance and the dual nature of its role, which involves overseeing parliamentary activities as well as managing the internal affairs of the council. Under the

supervision of the President, the bureau of the Council of the Nation is responsible for the following tasks ([Article 12 of Internal Regulations of the National Council, 2017](#)):

- Setting the date for distributing draft laws and texts referred to the council.
- Organizing and scheduling the agenda of general sessions of the council and ensuring their smooth conduct.
- Deciding on proposed laws, amendments, and resolutions in terms of form.
- Determining the voting methods in accordance with the provisions of Organic Law No. 16/12 and the internal rules of the Council of the Nation.
- Reviewing oral and written questions submitted by the President before referring them to the government.
- Deciding on requests to interrogate the government.
- Reviewing requests from permanent committees to hold hearings with members of the government.
- Deciding on temporary information missions proposed by permanent committees.
- Deciding on the formation of an investigative committee proposed by members of the Council of the Nation.
- Reviewing the draft agenda proposed by one or more opposition parliamentary groups.
- Discussing and approving the draft operating budget of the Council of the Nation and referring it to the Economic and Financial Affairs Committee for review.
- Approving the organizational structure of the administrative and technical departments and the procedures for monitoring the financial departments of the Council of the Nation.

The bureau of the Council of the Nation holds regular meetings periodically, upon invitation by the President. It may also convene extraordinary meetings whenever necessary, at the request of the President or the majority of its members. The agenda for each bureau meeting is communicated to its members before the meeting, and the minutes of the bureau's meetings are distributed to its members. Any member of the Council of the Nation may review these minutes with authorization from the President of the Council ([Article 13 of Internal Regulations of the National Council, 2017](#)).

### **III. C. Presidents' Body of the Council of the Nation:**

This is an advisory body composed of the heads of the structures of the Council of the Nation, as outlined in Article 53 of the 2017 Internal Rules of the Council of the Nation. It includes the President of the Council, the Vice Presidents, and the heads of the parliamentary committees. Under the authority of the President of the Council of the Nation, it is responsible for the following:

- Preparing the agenda for the regular session of the council.
- Preparing and evaluating the regular session of the council.
- Organizing the work of the permanent committees and coordinating their activities.
- Organizing the work of the general sessions of the council.

These responsibilities facilitate the removal of obstacles before the work of the Council of the Nation begins, fostering dialogue and resolving issues in advance. This approach helps to reduce tension, protests, and disruptions during the meetings of permanent committees or the general sessions of the council. However, despite the significant role played by the Presidents' Body, the final decision remains in the hands of the council's decision-making bodies.



### III. D. Coordination Body of the Council of the Nation:

According to Article 54 of the 2017 Internal Rules of the Council of the Nation, the Coordination Body is composed of the President of the Council, the Vice Presidents, the heads of the permanent committees, and the heads of the parliamentary groups.

This body meets at the invitation of the President whenever necessary. In addition to the consultation that the Council of the Nation holds with the parliamentary groups, the Coordination Body is consulted on the following matters:

- The draft agenda for the sessions.
- Organizing and evaluating the council's work to ensure its smooth functioning.
- Providing the necessary resources for the parliamentary groups to operate effectively.

### III. E. Parliamentary Committees:

Parliamentary committees are an extension of parliament and act as its aid, having become the true driving force behind most parliamentary activities. Although the final word on legislative matters belongs to parliament, the truth is that in most cases, parliament tends to follow what the parliamentary committees have pre-determined. Parliamentary committees are defined as: "Groups of parliamentarians in each of the two chambers, who study draft laws and proposals or conduct investigations and gather information before presenting them to the legislative council, as the council with all its members cannot calmly and thoroughly examine every issue brought before it" ([Afeen Khaled Abdul Rahman, p. 236](#)).

The Algerian constitutional legislator, like many other countries, has adopted the use of parliamentary committees. These committees serve as essential bodies for fulfilling parliamentary functions and carrying out the most important aspects of legislative work. The constitution mentions two types of committees: permanent committees and investigative committees. Article 134 of the 2016 Constitutional Amendment states: "Each of the People's National Assembly and the Council of the Nation shall establish its permanent committees within the framework of its internal rules." Furthermore, Article 180 of the same amendment states: "Each chamber of parliament, within its competencies, may establish investigative committees at any time on matters of public interest..."

What concerns us in this context are the permanent committees of the Council of the Nation, which are internal, permanent bodies with a pivotal and fundamental role in the legislative and oversight process. According to the provisions of Article 137 of the Constitution, the number of committees and their members is determined by the internal rules, allowing adjustments according to circumstances and developments without the need for a constitutional amendment.

The Council of the Nation establishes nine permanent committees, which are:

- Committee on Legal and Administrative Affairs, Human Rights, Local Governance, Territorial Development, and Regional Division.
- Committee on Economic and Financial Affairs.
- Committee on National Defense.
- Committee on Foreign Affairs, International Cooperation, and the Algerian Community Abroad.
- Committee on Agriculture and Rural Development.
- Committee on Education, Training, Higher Education, Scientific Research, and Religious Affairs.
- Committee on Equipment and Local Development.
- Committee on Health, Social Affairs, Labor, and National Solidarity.

– Committee on Culture, Information, Youth, and Tourism.

The Council of the Nation forms these permanent committees for a one-year term, renewable, with the possibility of fully or partially renewing the members of the permanent committees in the same manner outlined in the internal rules of the Council of the Nation ([Article 20 of Internal Regulations of the National Council, 2017](#)). Each permanent committee consists of 10 to 15 members at most, except for the Committee on Legal and Administrative Affairs, Human Rights, Local Governance, Territorial Development, and Regional Division, and the Committee on Economic and Financial Affairs, which have between 15 and 19 members at most. Notably, the number of committee members does not create a significant difference from the total number of members of the Council of the Nation.

Seats within the permanent committees are distributed among the parliamentary groups in proportion to the number of their members. The number of seats allocated to each group corresponds to the ratio of its members to the maximum number of committee members, as specified in Article 23 of the internal rules. This ratio is rounded up to the nearest whole number when the remainder exceeds 0.50 ([Article 17 of Internal Regulations of the National Council, 2017](#)).

The parliamentary groups allocate their members to the permanent committees within the limits of the quotas assigned to them, as per Article 17, taking into account the members' specialties and preferences. As for members not affiliated with any parliamentary group, the bureau of the Council of the Nation appoints them to a permanent committee based on their requests and preferences, as far as possible. If a seat in a permanent committee becomes vacant, the empty seat is filled according to the procedures specified in Article 17 of the 2017 Internal Rules of the Council of the Nation.

Regarding their competencies, each committee has its own specific field of intervention, which it exercises on a permanent basis, and its activities continue throughout the parliamentary session. These committees are specialized bodies, as each one is responsible for examining and studying the draft laws and proposals referred to it. They thoroughly analyze the legal texts, ask relevant questions, and present their findings in the form of a report. This report provides all necessary information and data to the members, enabling them to prepare for discussions and debates. The committees may consult experts and hear their opinions, and they may also summon any member of the government if necessary. Additionally, permanent committees can form temporary fact-finding missions on specific topics or situations, as confirmed by Article 50 of the 2017 Internal Rules of the Council of the Nation and Article 137 of the 2020 Constitutional Amendment.

### III. F. Parliamentary Overseer:

This is a newly established body under the 2017 Internal Rules of the Council of the Nation, as stipulated in Article 55 ([Article 55 of Internal Regulations of the National Council, 2017, 2017](#)). A Parliamentary Overseer is appointed, along with two deputies. The selection of the Parliamentary Overseer and their deputies follows the same procedures used for electing and renewing the bodies of the council. They are granted the same rights and privileges as the heads and deputies of the permanent committees.

### III. 2. Sessions of the Council of the Nation:

The general session of the Council of the Nation is the forum where all members convene and where final decisions are made on behalf of the council through voting. The role of the other administrative and technical bodies is to supervise, prepare, and facilitate the council's activities. Given its importance, the general session requires precise organization to ensure its smooth conduct. These sessions are characterized by their openness to the public and transparency, allowing everyone, especially the media, to follow the proceedings. They are formal and adhere strictly to the required procedures and formalities for their convening. The Council of the Nation

may, however, hold closed sessions upon the request of the President of the Council, the majority of its present members, or the Prime Minister.

The general session performs several tasks as defined by the internal rules of the Council of the Nation, including:

- Reviewing draft laws that have been prioritized and for which reports have been prepared, particularly those related to local governance, territorial development, and regional division, as well as the legislative proposals submitted by the members of the Council of the Nation for which reports have been prepared.
- Reviewing the texts passed by the People's National Assembly, for which reports have been prioritized.
- Examining and approving the budget settlement bill.
- Exercising the oversight tools available to it under the constitution, such as parliamentary questions, among others.
- Addressing other matters listed in accordance with the constitution and ([Organic Law No. 16-12, 2016](#)), which governs the organization and functioning of the People's National Assembly and the Council of the Nation, as well as the functional relationships between them and the government ([Organic Law No. 16-12, 2016](#)).

The general session is opened and closed by the President of the Council, who manages the discussions and exchanges between the members of the Council of the Nation and the representatives of the government. The President ensures compliance with the internal rules and maintains order during the session. The President may interrupt or adjourn the session at any time if necessary, or upon request by a government representative or the chair of the relevant committee. Furthermore, the President may reduce the speaking time during the debate to stay within the allocated time for discussion.

After the debates and deliberations, the general session proceeds to the final stage, which is voting on the decision to be adopted. The methods of voting on legal texts vary according to the procedures set out in ([Organic Law No. 16-12, 2016](#)), including:

- Voting with general discussion, which is the standard procedure for studying draft laws and legislative proposals. It is conducted in two consecutive phases: a general discussion and a detailed article-by-article discussion ([Article 32 of Organic Law No. 16-12, 2016](#)). After the discussions, the Council of the Nation may decide, depending on the circumstances, to vote on the entire text or vote on it article by article, or it may decide to postpone the vote. The relevant chamber deliberates on the matter after giving the floor to the government representative and the chair of the relevant committee.
- Voting with limited discussion, where the bureau of the Council of the Nation may opt for this approach based on the circumstances, following a request from the government representative, the relevant committee, or the sponsor of the legislative proposal. During limited discussions, no general debate is opened, and during the article-by-article discussion, only the government representative, the sponsor of the proposal, the chair or rapporteur of the relevant committee, and the sponsors of any amendments are allowed to speak ([Article 36 of Organic Law No. 16-12, 2016](#)).
- Voting Without Discussion applies to orders submitted by the President of the Republic to each chamber for approval. The President may issue urgent orders in the event of a vacancy in the People's National Assembly or during parliamentary recesses, and can also legislate by orders in exceptional cases ([Article 142, Paragraphs 3 and 4, 2016](#)). In these instances, no amendments can be proposed, and the entire text is presented for voting and approval without any debate, following statements from the government representative and the rapporteur of the relevant committee ([Article 37 of Organic Law No. 16-12, 2016](#)).

Afterward, voting takes place by secret ballot, general voting by a show of hands, or nominal voting, according to the conditions specified in Law No. 16-12. The bureau of the council, after consulting with parliamentary groups, determines the voting method. If a member is absent, they must designate another member to vote on their behalf, but proxy voting is limited to one proxy per member ([Article 74 of Internal Regulations of the National Council, 2017](#)).

In compliance with Article 140 of the Constitution, the Council of the Nation adopts the language that has been approved by the People's National Assembly by an absolute majority for organic draft laws or by a majority of current members for regular draft laws. Before beginning the approval process, a quorum check is required. If the quorum is not reached, the bureau of the council, in cooperation with the government, arranges for a second session ([Paragraphs 2 and 3 of Article 76 of Internal Regulations of the National Council, 2017](#)).

### **III. 3. Matters Related to Members:**

The issues addressed by the internal rules concerning members can be divided into matters affecting members individually (rights, privileges, and duties) and those affecting members collectively in terms of their affiliation within the council.

#### **III. 3.1. Matters Concerning Individual Members of the Council of the Nation:**

These can be categorized into a set of duties and rights:

##### **III. 3.1.1 Duties of a Member of the Council of the Nation:**

A member of the Council of the Nation has several duties while performing their parliamentary role:

- **Duty to Consider the Public Interest:** A member of the Council of the Nation is required to prioritize the higher interests of the state while carrying out their duties, as confirmed by Article 11 of Law No. 01/01 concerning members of parliament, as amended and supplemented ([Law No. 01/01, 2001](#)). The member must take into account the national interest, even if it conflicts with party affiliation, as they represent the interests of the entire nation, not just their electoral district.
- **Duty of Attendance:** A member of the Council of the Nation is a representative of the entire people and must defend their interests by fulfilling the parliamentary tasks entrusted to them, which can only be achieved through attendance and active participation in the council's various structures. Attending is also a sign of respect for their voters. Article 12 of Law No. 01-01 states: "A member of parliament must attend the general sessions, the meetings of the committees to which they belong, and participate in voting or approval, as well as perform the tasks assigned to them." Furthermore, Article 116/2 of the 2016 Constitutional Amendment stipulates: "...the internal rules of the People's National Assembly and the Council of the Nation shall include provisions requiring the effective participation of their members in committee work and general sessions, under penalty of sanctions applicable in case of absence."

In light of the aforementioned points, the 2017 Internal Rules of the Council of the Nation introduced a series of progressive sanctions, typically ranging from a written warning to publishing the list of members absent from council sessions in the official journal of debates and on the council's official website, and ultimately, deducting from the parliamentary allowance based on the number of days the member was absent from the work of the permanent committees and general sessions. If a member is absent without a valid excuse for three consecutive times during the same session, they are barred from running for any position in the council's bodies and entities in the next term.

In addition to attending the sessions, a member of parliament must respect the rules of conduct during the sessions, including how they speak and following the President's orders. Failure to comply with these rules subjects the member to disciplinary actions, which may include a reminder of the rules, a warning, revocation of the right to speak, and a ban from participating in

discussions. A member who is banned from speaking is prohibited from participating in the council's discussions for three consecutive sessions. In the case of repeat offenses or refusal to comply with the President's instructions, the ban is extended to six consecutive sessions. However, this ban on speaking is only imposed after the member is summoned by the council's bureau, which hears the member's case before making a decision ([Article 120-121 of Internal Regulations of the National Council, 2017](#)).

- **Duty of Confidentiality:** A member of the Council of the Nation must maintain the confidentiality of the deliberations of the committee they belong to, as stipulated by Article 13 of Law No. 01/01 concerning members of parliament. Article 45 of the 2017 Internal Rules of the Council of the Nation further reinforces this by stating that the meetings of the Council's permanent committees are closed, and the committees are prohibited from publishing or announcing their minutes, a responsibility that falls to the chair of the committee.

### III. 3.2. Rights and Privileges of a Member of the Council of the Nation:

#### III. 3.2.1 Parliamentary Immunity:

Immunity is a privilege adopted by most systems, consisting of a set of constitutional provisions that provide members of parliament with a legal framework different from the ordinary legal system applied to the general public, particularly regarding their interactions with the justice system. This aims to safeguard their freedom and independence ([Shakir, 2001, p. 638](#)).

The 2020 Constitutional Amendment ([Constitutional Amendment, 2020](#)) revised the scope of immunity by limiting it strictly to parliamentary activities, in the precise sense of the term, excluding all actions unrelated to parliamentary duties. This reinforces equality among citizens before the law, as outlined in Articles 129, 130, and 131 of the 2020 Constitutional Amendment. Parliamentary immunity can be divided into two categories:

- **Substantive Immunity:** This refers to the inability to prosecute members of parliament, criminally or civilly, at any time for the ideas and opinions they express while performing their parliamentary duties ([El-Gamal, 1995, p. 200](#)). It pertains primarily to the member's speech, not their actions. It also means that a member of parliament is not criminally or civilly liable for opinions and ideas expressed during their work in the council or its committees, regardless of the content of these ideas or opinions. Therefore, substantive immunity is a guarantee of the freedom of speech and action for members of parliament within what is permissible and reasonable, enabling them to criticize and disclose information without fear, pressure, or the threat of sanctions, thereby supporting their impartiality.
- **Procedural Immunity:** This refers to immunity from legal proceedings, meaning that no criminal action can be taken against a member of parliament during their term of office, except in cases of *flagrante delicto*, without the permission of the chamber to which they belong. The term "criminal procedures" is broad and includes all known legal actions such as interrogation, arrest warrants, and search orders ([Mellawi, 2015, p. 92](#)).

The scope of immunity was altered under the 2020 Constitutional Amendment. Article 130 now states: "A member of parliament may be subject to legal proceedings for actions unrelated to their parliamentary duties after an explicit waiver of their immunity. If the member does not waive immunity, the referring authorities may notify the Constitutional Court to issue a decision on whether to lift immunity." It is evident from this article that the constitutional legislator has limited the immunity of members of parliament strictly to their parliamentary activities, whether inside or outside parliament. Outside of this, they are treated as ordinary citizens, a provision aimed at curbing the excessive exploitation of immunity by members for personal gain or legal violations.



The procedural immunity process can be summarized as follows:

- A request to lift the immunity of a member must be submitted by the Minister of Justice and Keeper of the Seals, in accordance with Article 125 of the 2017 Internal Rules of the Council of the Nation.
- The request to lift parliamentary immunity for judicial proceedings is submitted to the bureau of the Council of the Nation, which forwards the request to the Legal Affairs Committee. The committee prepares a report on the matter within two months from the date of referral, after hearing the member of the Council of the Nation involved. The member may seek assistance from one of their colleagues to ensure the seriousness or maliciousness of the request. The committee then submits its report to the bureau of the council.
- The council rules on the request to lift immunity in a closed session, with a secret ballot and by majority vote, after hearing the report from the committee and the member concerned, who may be assisted by one of their colleagues. In all cases, these procedures must be completed within three months from the date the request was submitted, and the parliamentary recess period is not included in the time frame ([Cheroun, p. 154](#)).
- Parliamentary Compensation (Allowances): Parliamentary compensation is a financial privilege granted to members of parliament, along with various allowances and reimbursements for travel expenses related to performing their parliamentary duties within the country. It is not a salary, but compensation for the additional expenses incurred by members due to their parliamentary roles. Under the law governing members of parliament, members are entitled to a basic allowance as well as other complementary allowances, as confirmed by Articles 18 and 19 of Law No. 01/01 concerning members of parliament.
- The primary purpose of parliamentary compensation is to provide members with a financial counterpart for their work, maintaining their dignity and enabling them to focus entirely on parliamentary activities without seeking financial support from external sources, which could affect their credibility and impartiality. This is particularly important since members of the Council of the Nation cannot combine their role with other certain jobs.
- Retirement and Social Security: According to Article 15 of Law No. 01/01 concerning members of parliament, the parliament represents each member in resolving any issues related to their reintegration into their original position once their parliamentary term ends. It also represents them before the special retirement fund for senior officials or any other relevant fund. Members of parliament are entitled to social protection, which includes maternity insurance, health insurance, and disability insurance, as stipulated by Decree No. 83/11 ([Decree No. 83/11, 1983](#)). Under Law No. 89/14 ([Law No. 89/14, 1989](#)) concerning the legal status of parliamentarians, Article 47 provides that members are entitled to social security during their term. Similarly, under Law No. 01/01 concerning members of parliament, Article 16 states: "When the term ends due to death, the rights holders of the deceased member shall benefit from the retirement pension-related privileges."

### III. 4. Matters Concerning Members Collectively (Parliamentary Groups):

Parliamentary groups are collective structures composed of a number of members who come together based on their political affiliations. Typically, these groups are primarily composed of members from the same political party. The internal rules vary regarding the minimum number required to form a parliamentary group. In the case of members of the Council of the Nation, they can form parliamentary groups based on party affiliation, as stipulated in Article 10 of Organic Law No. 16-12. The members appointed under the provisions of Article 118, paragraph 3 of the Constitution form a single parliamentary group representing the presidential third. No group or groups may be formed to promote personal or professional interests, and the creation of any associations within the Council of the Nation, regardless of their nature, is prohibited.



### **III. 4.1 Formation:**

A parliamentary group is composed of at least 10 members. No political party can create more than one parliamentary group, and independent members of the council cannot create more than one parliamentary group. Every member of the Council of the Nation has the right to join one parliamentary group, or they may choose not to join any group. Appointed members can only belong to the parliamentary group of the presidential third, and an elected member of the council who belongs to a group formed on the basis of party affiliation cannot change their parliamentary group. Members belonging to a party that does not meet the requirements to form a parliamentary group may select a delegate to express their concerns. This delegate can attend Coordination Body meetings but does not have the right to vote.

From a procedural standpoint, the establishment of parliamentary groups does not require complex procedures or formalities. These groups are formed by submitting a file to the bureau of the Council of the Nation, containing the following documents: the name of the group, the list of members, the composition of the bureau (consisting of the president, vice president, and rapporteur), the group's internal rules in accordance with the council's internal rules, and an indication of whether the group has a political nature of opposition.

In the event of changes in the composition of the parliamentary group, the group must present a nominal list of its bureau and members in a public session whenever there is a modification in its composition due to resignation, expulsion, or new membership. All changes must be published in the official journal of debates after the parliamentary group notifies the council's bureau, as specified in Article 60 of the internal rules. A parliamentary group is automatically dissolved and ceases to exist if, for any reason, the number of its members falls below the required minimum.

### **III. 4.2: Functions:**

According to the provisions of the 2017 Internal Rules of the Council of the Nation, parliamentary groups play a significant role, both in legislative and organizational matters.

#### **III. 4.2.1 Legislative Role:**

Parliamentary groups are consulted on the scheduling of the council's session agendas, and they also contribute to organizing the council's work and ensuring the proper functioning of parliamentary groups. Additionally, parliamentary groups are consulted on determining the procedures for the committees' work as well as the voting methods.

#### **III. 4.2.2 Organizational Role:**

This role involves the distribution of the Vice President positions based on proportional representation, following an agreement between the representatives of the groups in a meeting convened by the President of the council. The groups also allocate their members to the permanent committees within the quotas set according to Article 17 of the internal rules. Furthermore, parliamentary groups participate in the distribution of roles within the bureaus of the permanent committees, including the positions of president, vice president, and rapporteur, through agreements made during meetings held between the group leaders and the bureau, upon the invitation of the President of the council.

### **IV- Conclusion:**

In conclusion, our study leads us to assert that the 2017 Rules of Procedure of the Council of the Nation are a special legal text that enjoys a certain level of independence from general rules. It embodies continuity and permanence despite the recurrence and variation of rules. This document was created in response to the 2016 constitutional amendments with the aim of introducing significant reforms through a comprehensive and insightful vision that seeks to enhance

and develop the parliamentary work system. It includes many positive innovations, such as the establishment of the parliamentary monitor as a new body and the imposition of disciplinary measures to ensure order within the council. The most significant findings reached are as follows:

- The Council of the Nation independently establishes its internal regulations. However, these regulations are only implemented after ensuring their compliance with constitutional provisions, which positively affects the members' work and seriousness in drafting their internal regulations, deepening the discussion around them, clarifying their rules, and aligning them with the constitution and other complementary texts that hold a higher value than the internal regulations. This process supports the rule of law, the supremacy of the constitution, and the democratic discipline of people's representatives through their respect for the constitutional framework.
- The President of the Council of the Nation occupies an important position as the second most prominent figure in the state after the President of the Republic. The President is regarded as the leader of parliamentary work and a wise figure responsible for maintaining order within the council and reconciling the different political formations represented within it, including the appointed members.
- The Rules of Procedure of the Council of the Nation extensively detail the competencies of the council's bureau, reflecting its importance and dual role, primarily overseeing parliamentary activities and managing the internal affairs of the council.
- The Algerian constitutional framework does not grant members of the Council of the Nation the right to request the convening of an extraordinary session.
- The 2017 Rules of Procedure of the Council of the Nation introduced a series of graduated sanctions, ranging from written warnings to deductions from the parliamentary compensation received by members, equivalent to the number of days they were absent from committee work or plenary sessions. If a member is absent for three consecutive times during the same session without a valid excuse, they are disqualified from running for any position in the council's bodies and institutions for the upcoming term.
- Following the 2020 constitutional amendment, the scope of immunity was revised, limiting it strictly to parliamentary activities in the precise sense of the term, thereby excluding actions not directly related to parliamentary duties. This reinforces the principle of equality before the law, which necessitates a review of the Council of the Nation's internal regulations to align with these fundamental amendments.

Finally, we can propose some recommendations, including:

- We suggest that the constitutional framework entrust the task of referring the internal regulations to the Constitutional Council—which became the Constitutional Court after the 2020 amendment—to the President of the Council of the Nation, rather than the President of the Republic.
- The internal regulations of the Council of the Nation should be revised to reflect the developments introduced by the recent 2020 constitutional amendment.
- Specialized human resources should be trained and equipped for parliamentary work, and efforts should be made to establish and support expert bodies specialized in parliamentary work to assist Council of the Nation members in preparing for their duties and drafting their reports.
- Universities should be encouraged to focus more on parliamentary work.


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