

## **Democratic and Popular Republic of Algeria**

### **Presidential Decree No 94-40 of Chaabanne 17 1414 Corresponding to January 29 1994 on Publication of the Platform of National Consensus during the Transitional Period**

The President of the High State Committee;

In light of the Constitution, particularly articles 67 and 74-6;

In light of the proclamation of January 14, 1992, establishing the High State Committee;

In light of the High State Committee debate no 92-4 of July 2, 1992, concerning the election of the President of the High State Committee;

In light of the proclamation of December 19, 1993 of the High Security Council;

#### **Orders:**

Article 1: The platform of national consensus during the transitional period adopted by the conference on national consensus and annexed to the present decree, shall be published in the Official Journal of the Democratic and Popular Republic of Algeria.

Article 2: The present decree shall be published in the Official Journal of the Democratic and Popular Republic of Algeria.

Done at Algiers, Chaabanne 17 1414, corresponding to January 29, 1994.

Ali KAFI

#### **INTRODUCTION**

Since Algeria recovered its sovereignty and independence, the culmination of the aspirations and incessant struggle of the national movement and the November revolution, the country has undergone profound change, both physically and in terms of its social, cultural and human development.

While there have undeniably been numerous positive achievements during this phase of construction, nonetheless mistakes and harmful behaviour have seriously damaged the credibility of some institutions and reduced their efficacy to the point of endangering their stability.

Serious difficulties remain at the point at which the national consensus conference is taking place. Some were foreseeable while others are completely unexpected. They still weigh heavily on society

and serious differences concerning the approach and solutions to use are hindering resolution of the crisis.

However, the search for a lasting and truly life-saving solution is a lengthy project which can only mature and develop in response to a series of political, economic and social ruptures, because so much needs to be done.

Therefore a transitional period appears to be necessary to implement this process, in order to create the conditions needed to emerge from the crisis, based on greater political and social cohesion, in order to re-energise and harness the available potential.

This transitional period should favour the social conditions needed to reach a secure and reliable outcome as easily as possible.

Overall, this consists of resolving a situation which has deteriorated in the view of many, so that henceforth society will be able to design its own solutions within a more appropriate framework, and realise its freely expressed choices.

This is only possible within a democratic and republican political system guaranteed by a Constitution which is both a reference and a stabilising anchor enforceable in respect of everyone and where everyone has the same status.

Hence, a certain number of actions and priority tasks to set the country en route to emerge from the crisis shall be developed during the transitional period.

To emerge from this crisis at the political level, it will be necessary to use the electoral system. The necessary conditions for this are not only political, as well as economic, social and security-related.

The transitional organs shall be responsible for creating these conditions, and their organisation and operations shall be regulated by the Constitution and by specific provisions foreseen in the transitional platform.

The Constitution remains the normative base for this development. It is the fundamental reference framework which guides public life. However, it has not been fully implemented, given the acknowledged impossibility of organising elections at short notice.

This absence of elected organs means that they shall be substituted during the transitional period.

It is in this regard that a State Presidency and a National Transitional Council are planned, in place of the President of the Republic and the National Popular Assembly, which are not yet elected.

Clearly the success of the transitional period will depend on the quality of the organs put in place, on the appropriateness of their objectives, but also on the people who shall lead them. It will also depend on the impetus which the national conference is able to bring to the process.

The support of the political, economic and social forces representing society will bring about a necessary strengthening of confidence in the exercise of power and will in general terms help to overcome differences, so that all efforts may be focussed on dealing with the crisis and setting the country on the path to civil peace, democracy and progress.

## OBJECTIVES OF THE TRANSITION

Evaluation of the political, economic, social and security situation facing the country has highlighted the key aspects of the crisis.

The objectives of this transitional period are to take the concrete and priority measures needed to address this situation.

### 1 – Political objectives

The actions to be taken in this area consist of:

- resolutely restoring civil peace;
- re-starting the electoral process as soon as possible within a democratic framework, enabling the expression of freely made choices, within a timescale to be determined;
- maintaining and developing the gains of the national conference and reinforcing national harmony, by ensuring the smooth functioning of transitional organs, mobilising strong and active social forces and pursuing national dialogue;
- consolidating the structures and restoring the functioning of the State, by a fundamental reform of the administration enabling:
  - effective delivery of the permanent functions of the State,
  - the development of society by responding to the needs of users and ensuring equity for all,
  - respect at all times for the neutrality of the administration.
- improving ethical standards in public life and strengthening monitoring functions;
- specifying these actions in new legal provisions relating in particular to:
  - electoral legislation,
  - political party legislation,
  - information legislation.

### 2 – Economic objectives

The transitional period shall be designed to ensure the relaunch of the national economy in order to stimulate and develop production and employment capacity. This shall be done by:

- carrying out and deepening reforms in conjunction with social partners in order to adapt the national economy to major global economic changes and to manage the move to a market economy;

- industrial restructuring to encourage the development of reliable and performing businesses in order to be able to respond to internal consumer demand, to increase exports and to stimulate youth employment;
- supporting the export of hydrocarbons, to diversify sources of finance for the economy;
- the rational extraction and consumption of resources, in order to contribute to economic integration and to meet the long-term energy needs of the country;
- developing a global and dynamic agricultural policy to ensure food security, and so that this sector plays an important role in economic and social development;
- in addition to the planned industrial and agricultural programmes, appropriate actions should be taken to develop services, given that the existing possibilities and the relatively low levels of investment in this area should encourage economic initiatives in this sector.

### **3 – Social objectives**

These aim to improve the living conditions of the population. In order to do this, it is planned to:

- strengthen social justice by a fair distribution of national wealth;
- improve housing by:
  - strengthening a permanent administration in order to create the conditions needed to relaunch building programmes and improve the availability of housing;
  - diversify sources of finance for housing;
  - target State financial support to the poorest;
  - develop a non-bureaucratic property and real estate market;
  - increase aid for rural housing;
  - strengthen the authority of the State in the areas of urbanisation and land management;
- develop and implement an appropriate and ambitious policy for young persons in particular, by designing and implementing training, employment and social programmes, based on a new and dynamic vision to deal with the problems of young people.

### **4 – Security objectives**

Taken together, the actions planned for the political, economic and social spheres aim to ensure the security of persons and property and to bring about civil peace. The necessary fight against terrorism will therefore be undertaken by society as a whole, through their other actions and renewed cohesion, by seeking dialogue and through the organs which shall be put in place. In parallel, calming measures may be planned as the situation evolves.

## **ORGANISATION OF ORGANS OF THE TRANSITIONAL PERIOD**

### **CHAPTER 1 GENERAL PROVISIONS**

Article 1 – The transitional period shall derive its legitimacy from the support of the political, economic and social force for the content of the platform adopted by the National Consensus Conference.

Article 2 – The length of the transitional period shall be limited to three (3) years.

Article 3 – The transitional period aims to consolidate and establish permanent constitutional law which shall guarantee:

- the sovereignty of the State,
- the republican and democratic character of the State within the framework of the principles of Islam and the specific characteristics of the Algerian people,
- individual and collective rights and fundamental liberties,
- the principle of obtaining and exercising power through democratic elections.

These objectives are intended to establish social justice and national solidarity, ensure civil peace and the political, economic, social and cultural development of the country in accordance with its aspirations and ambitions to assume its place in universal civilisation.

### **CHAPTER II**

#### **ORGANS OF THE TRANSITIONAL PERIOD**

Article 4 – the organs of the State during the transitional period shall be:

- the State Presidency,
- the Government,
- the National Transitional Council.

Article 5 – The transitional organs shall be regulated by the Constitution and the relevant provisions of the present text.

#### **Section 1 The State Presidency**

Article 6 – The State Presidency shall be ensured by a State President. The State President may designate one or two Vice-Presidents.

The Vice-Presidents shall assist the President in the tasks he assigns to them.

The State President shall be designated by the High Security Council.

Article 7 – The State President shall fulfil the conditions foreseen in article 70 of the Constitution.

Article 8 – The State President shall swear an oath before the high organs of the Nation, in accordance with the provisions in articles 72 and 73 of the Constitution. He shall also undertake to monitor implementation of the content of the present platform.

Article 9 – The role of State President is incompatible with any private or voluntary functions. It is also incompatible with any role in a political party or movement.

Article 10 – In the case of death, resignation or definitive impeachment of the State President, and after confirmation of the Presidential vacancy by the Constitutional Council, the High Council of Security convened by the Head of Government shall undertake to replace him, in consultation with the President of the National Transitional Council.

Article 11 – The State President embodies the unity of the Nation:

- he shall be the Head of State,
- he shall be the guarantor of the Constitution and the platform of national consensus,
- he shall monitor the implementation of the above,
- he shall represent the State in the country and abroad.

Article 12 – the State President shall ensure the harmonious and legitimate functioning of public powers.

Article 13 – the State President shall benefit from the following powers and prerogatives:

- 1) He shall be the Supreme Commander of the Armed Forces of the Republic,
- 2) He shall be responsible for the national defence,
- 3) He shall decree and lead the foreign policy of the Nation,
- 4) He shall chair the Council of Ministers,
- 5) He shall appoint the Head of Government and terminate his appointment,
- 6) He shall sign Presidential decrees,
- 7) He shall appoint civilian and military State employees,
- 8) He shall have the right to pardon, reduce or change a sentence,
- 9) He shall consult the people by referendum, on any question of national importance,
- 10) He shall appoint and recall the Republic's ambassadors and special envoys, overseas. He shall receive foreign diplomats' letters of accreditation or recall,

- 11) He shall conclude and ratify international treaties,
- 12) He shall confer State decorations, honours and honorific titles.

Article 14 – The State President shall make an annual address to the people on the state of the Nation.

Article 15 – The State President shall decree a state of siege or of emergency as foreseen in article 86 of the Constitution. An Ordinance shall determine the regime of the state of siege or emergency.

Article 16 – The State President shall decree a state of exception as foreseen in article 87 of the Constitution.

## **Section 2**

### **The Government**

Article 17 – The Head of Government shall develop the transitional programme based on the objectives agreed by the platform of national consensus.

The Council of Ministers shall debate the transitional programme.

The Head of Government shall submit the transitional programme for approval to the National Transitional Council.

The programme shall be adopted, except where a resolution of reservation is approved, with a majority of two thirds of members.

In this case the Head of Government may either adapt his programme according to the reservations expressed, or request a vote of confidence.

A vote of confidence shall be approved by simple majority.

Article 18 – The Head of Government shall present an annual report on the implementation of his programme to the National Transitional Council. Based on the annual implementation status of the transitional programme there shall be a debate on the Government's activity. The debate may result in the adoption of a resolution addressed to the President and to the Head of Government.

Article 19 – The Head of Government may, during the discussion of a legal text, request a vote of confidence.

The vote of confidence shall be approved by simple majority.

Article 20 – Without prejudice to any of the provisions foreseen in article 81 of the Constitution, the Head of Government:

- shall be responsible for the general direction and implementation of the transitional programme,
- shall be the Head of the Administration; he shall supervise the proper functioning of public services,
- shall be responsible for public security and maintaining order and shall dispose of the public forces for this purpose, within the framework of the law.

Article 21 – The Head of Government shall implement national defence and external relations policy in accordance with the guidance of the State President.

Article 22 – The Head of Government shall initiate ordinances. All draft ordinances shall be adopted by the Council of Ministers before their deposition in the office of the National Transitional Council.

Article 23 – The role of member of the Government is incompatible with membership of the Transitional Council, and also with any professional function, public or private employment or any responsibility within a political party or association.

### **Section 3 The National Transitional Council**

#### **Paragraph 1 Mission and remit of the National Transitional Council**

Article 24 – The National Transitional Council shall ensure respect for the national consensus platform, within the framework of its prerogatives.

Article 25 – The National Transitional Council shall exercise its legislative functions by means of orders for matters relating to law on the initiative of the Government or, for matters relating to the objectives of the transitional period on the initiative of one third of the members of the Transitional Council, following Government approval.

Article 26 – An ordinance shall be approved by the National Transitional Council by simple majority. In the event of the absence of a council member, only a maximum of one vote by proxy shall be accepted.

The State President may request a second reading of an approved ordinance within thirty (30) days of its adoption. In this case, a majority of two thirds (2/3) of National Transitional Council members shall be required for adoption of the ordinance.

The ordinance approved by the National Transitional Council shall be promulgated by the State President within 30 days of the date of its approval.

**Paragraph 2**  
**Composition and status of the National Transitional Council**

Article 27 – The National Transitional Council shall be made up of two hundred (200) members designated either by the State or their nominating organisation, and appointed by decree for the whole period of the transition.

The National Transitional Council shall be made up of representatives of the following categories: the State, the political parties and economic and social forces.

Representatives of the State shall occupy thirty (30) seats, 15% of the total number. The distribution of the remaining one hundred and seventy (170) seats shall be by mutual agreement between the State and the represented parties, with an equal share for the representatives of the social and economic forces on one hand and for the representatives of political parties on the other.

Article 28 – The investiture of members of the National Transitional Council shall take place no later than three (3) months after publication of the present platform in the Official Journal of the Democratic and Popular Republic of Algeria.

Article 29 – The members of the National Transitional Council shall meet the following criteria:

- be at least twenty five (25) years of age,
- be of Algerian nationality,
- be entitled to their civil rights,
- shall have no conviction for a criminal offence the maximum penalty for which is death, imprisonment or loss of civil rights (“peine afflictive ou infamante”),
- have no record of anti-national behaviour during the war of national liberation.

In addition they shall be required to comply with the provisions of the present platform.

Article 30 – No member of the National Transitional Council may be subject to any charges, be arrested or be the subject of any civil or penal action, and may not be subject to any pressure as a result of his expressed opinions, or proposals he has made while exercising his mandate.

Article 31 – Except where caught red-handed in an act of flagrant crime or an attack on the security of the State, no charges may be brought against a member of the National Security Council for a criminal act except where expressly agreed by the accused, or by a vote of the National Security Council which decides by a majority of its members that his immunity should be waived.

Article 32 – A member of the National Transitional Council shall be responsible to his peers, who may dismiss him if he commits an act unworthy of his position.

The conditions whereby membership of the National Council may be revoked shall be determined by internal regulation of the National Transitional Council.

Article 33 – In case of dismissal, resignation or death, or any other definitive obstruction, of a member of the National Transitional Council, he shall be replaced on the proposal of his nominating body in accordance with article 29 of the present platform.

### Paragraph 3

#### **Organisation and Functioning of the National Transitional Council**

Article 34 – The mandate of the National Transitional Council shall enter fully into force on the tenth day following investiture of its members, chaired by its oldest member, assisted by the two youngest members.

In agreement with the Government, the National Transitional Council shall specify and adopt its internal regulations.

The National Transitional Council shall proceed to elect its office and to appoint its committees.

Article 35 – The President of the National Transitional Council shall be elected by the members of the National Transitional Council for the duration of the period of transition. In case of the resignation or death or definitive obstruction of the President, his replacement shall be appointed in the same way, for the remaining period of the transition.

Article 36 – The general rules for the organisation and operation of the National Transitional Council, as well as its budget and indemnity for its members, shall be established by ordinance.

Article 37 – Sessions of the National Transitional Council shall be public. Minutes of the meetings shall be recorded and published, as specified by internal regulation. The National Transitional Council may meet in closed session at the request of its president, [and of] the majority of its members or the Government.

Article 38 – The National Transitional Council shall sit in two (2) ordinary sessions.

The first session shall start on the second working day of the month of October for a maximum of one hundred (100) days.

The second session shall start on the second working day of the month of April for a maximum of one hundred and twenty (120) days.

The National Transitional Council may be convened for a special session by the State President, at the request of the Head of Government or a majority of two thirds of its members.

The special session shall end when the National Transitional Council has dealt with the agenda for which it was convened.

Article 39 – The agenda of the National Transitional Council shall be prepared by its office in light of the Government's priorities.

Article 40 – The Government and Council members retain the right to amend draft ordinances submitted to the National Transitional Council. During the debate the Government may prevent discussion of any amendment not approved in advance by any competent committee.

**Section 4  
The Constitutional Council**

Article 41 – The State President and the President of the National Transitional Council shall exercise the prerogatives foreseen in article 154 of the Constitution for the benefit respectively of the President of the Republic and the National Popular Assembly.

**CHAPTER III**

**FINAL PROVISIONS**

Article 42 – The State President shall rule by legislative decree until the National Transitional Council is in place.

Article 43 – The present platform shall be published in the Official Journal of the Democratic and Popular Republic of Algeria.

Done at Algiers, Chaabane 14, 1414, corresponding to January 26, 1994

Dr. Youcef KHATIB

President of the Committee for National Dialogue and President of the Conference on National Consensus

Source: National Popular Assembly of the Republic of Algeria