

Fatwa & Legislation Office issued a statement in which it declared that the presidential term shall be extended to co-occur with the end of the second legislative council term elected in January 25th 2006. The Counselor Abdel Kareem Abu Salah, Head of the Fatwa and Legislation Office, added: "The next presidential term shall be held in conjunction with the legislative elections. In pursuant to the law regulations, the period preceded the legislative elections is considered a complementary period of the previous presidential term asserting that the coming presidential elections must be held in parallel with the legislative elections.

The statement:

Legal Opinion Regarding The Presidential Term of President Abbas

In the light of many press statements and releases issued recently that raised the issue of the presidential term which included constitutional and legal errors and faults, we would like to clarify the relevant legal opinion in accordance with the legal and constitutional texts as the following:

First: the Constitutional Texts – the modified Basic Law of 2003 and its amendments:

Article 36: The term of the presidency of the National Authority shall be four years. The President shall have the right to nominate himself for a second term of presidency, provided that he shall not occupy the position of the presidency more than two consecutive terms.

Article 47- Clause 3: The term of the Legislative Council shall be four years from the date of its being elected and the elections shall be conducted once each four years in a regular manner.

Second: The legal texts in accordance with the Law No. 9, 2005 on elections and its amendments:

Article 2: Election the President and the Members of the Council:

Without prejudice to the provisions of the provisional Article (111) of this law, and with the exception of the first legislative elections that shall be conducted after the approval of this law only:

- the President and the council members shall be elected simultaneously via secret balloting in general, free direct elections
- the Presidential office term shall be four years subject to re-election for only two consecutive terms
- the council shall be composed of 132 membership.
- The council shall serve for a four year term commencing from the election date thereof. Elections shall be held periodically every four years

Article 97, paragraph 4: in accordance with the provisional article (111) of this law:

- If the term remaining of the presidency of the National Authority is more than one year, the new presidential term shall be the remaining of the term of presidency as specified and stipulated by the law.

If the term remaining of presidency of the National Authority is less than one year, the new presidential term shall be the remaining of the previous term and a new term of 4 years provided that the general council elections shall be on time to accompany the new presidential term and run for the same period.

Article 111:The next Presidential Elections:

The new presidential elections shall be conducted by the end of the legislative term of the first elected Palestinian Legislative Council after the enforcement of the provisions of this amended law and in accordance thereof.

Article 116 of the presidential decree No. 1 of 2007, pertaining the general elections:

without violating the provisions of Articles (105) and (106) of this law, the next presidential elections shall be conducted at the same time with the first legislative elections shall be conducted by virtue of this law.

Third: after reviewing the aforementioned constitutional and legal texts, we can conclude the following:

1. The Legislator by issuing these articles aimed at ensuring concurrent legislative and presidential elections and this purpose was confirmed by texts of the constitutional articles (36-47) of the modified Basic Law and its amendments as well as by articles (2-4/97-111) of Law No.9 of 2005 pertaining Elections and its amendments in addition to Article 116 of law by decree No.1 of 2007 on General elections.
2. For this purpose, i.e. concurrence of legislative and presidential elections, and in the light of absence any clear evident legal text that regulates the interval between the presidential elections that took place before the enacting election law legislative elections that were approved later in pursuant to Law No.9 of 2005 (The Transitory Period); the Legislator talked about the presidential term in Article (36) of the Basic Law and its amendments by which The term of the presidency of the National Authority is limited to four years without pointing out directly or indirectly to when the term shall start; thus leaving this issue to be regulated by the aforementioned elections law. This does not apply on the legislative elections term which is unquestionably specified in definite text stated in clause 3 of Article 47 of the Basic Law.
3. Article 2 of Law No. 9 of 2005 included the same regulations of articles (36-47/3) of the Basic Law and its amendments pertaining the presidential and legislative term, but it regulated more clearly the issue of the starting date of the presidential term as well as the period preceded the second legislative elections (mentioned above). By reading the preamble of Article 2, it decisively confirmed that this period is an exceptional transitory period that is totally constitutional and legal; it happened only one time due to the absence of a rule/regulation that governed this issue.
4. Paragraph 4 of Article 97 comes as a legal reference to solve this issue; it regulates this case in clauses (a) and (b) so this text will apply to all presidential elections to be held in the future in case of constitutional "vacancy". This paragraph confirms that its text does not apply on the current presidential term considering it a one exceptional case.
5. The text of Article 111 of Law No. 9 of 2005 about elections resolved the issue (the presidential term that preceded the legislative elections) definitely without leaving any doubts or discretion confirming that the next presidential elections shall be conducted at the

same time with the first elections of the PLC conducted after the prevalence of this modified law.

6. Article 116 of the presidential decree no.1 of 2007 about the general elections includes the same clauses and regulations of article 111 of Law No. 9 of 2005 and in compliance with.

Fourth: The Conclusions:

1. the presidential term shall be extended to the end of the second legislative council elected on January 25th 2006
2. the duration the preceded the legislative elections is a complementary period for the previous presidential term
3. the next presidential elections shall be held simultaneously with the legislative elections in compliance with regulations of law.