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Oversight of the Constitutionality of Laws in Light of the Algerian Constitutional Amendment 2020 and Organic Law No: 22-19

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Abstract

Oversight of the constitutionality of laws in Algeria constitutes one of the most prominent constitutional mechanisms ensuring the supremacy of constitutional provisions. The rules governing such oversight have been defined by the latest constitutional amendment of 2020 and Organic Law No: 22-19, which specifies the procedures and methods for notifications and referrals before the Constitutional Court. This study aims to clarify the oversight of the constitutionality of laws under the current Organic Law No: 22-19, which outlines the procedures and methods for notifications and referrals before the Constitutional Court.

Keywords: Constitutional oversight, Constitutional Court, notification mechanism, 2020 Algerian constitutional amendment, Organic Law No: 22-19.

Introduction

A state governed by the rule of law is founded on the essential principle of the supremacy and primacy of the Constitution. To realize this principle, it is necessary to establish an effective mechanism to ensure constitutional supremacy, which is embodied in the oversight of the constitutionality of laws.

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As the Constitutional Court is the constitutional body entrusted with ensuring respect for and supremacy of the Constitution, it is vested with the authority to rule on the constitutionality of laws, alongside a range of powers granted to it by constitutional provisions.

The Constitutional Court, however, exercises its oversight over legal texts only after this oversight is activated, either through a notification by political bodies or through a claim by one of the litigants before a judicial body that the text in question, applied to resolve the dispute, violates constitutional rights and freedoms or is unconstitutional.

The Algerian constitutional system has witnessed various types of oversight over the constitutionality of laws, including those introduced by the 2020¹ constitutional amendment, such as compatibility oversight.

Oversight of the constitutionality of laws leads to a set of legal effects that ensure the realization of the principle of constitutional supremacy, thereby solidifying the rule of law.

The topic of oversight of the constitutionality of laws is of great importance due to its role in upholding the principle of constitutional supremacy, thus embodying the rule of law. Given that oversight of the constitutionality of laws serves as a fundamental guarantee for realizing constitutional supremacy and primacy, we propose the following research question:

- How has the Algerian legislator organized oversight of the constitutionality of laws under the provisions of Organic Law No. 22-19², which specifies the procedures for notifications and referrals before the Constitutional Court?

To answer this question, both the descriptive method—by examining facts related to the oversight of the constitutionality of laws—and the analytical method—through analyzing constitutional and legal texts, particularly the provisions of the 2020 constitutional amendment and Organic Law No: 22-19—have been adopted.

Accordingly, this research paper is divided into two main sections. The first topic examines the mechanisms for activating the Constitutional Court's oversight of the constitutionality of laws, while the second topic explores the types of oversight over the constitutionality of laws and their effects.

THE FIRST TOPIC: Mechanisms for Activating the Constitutional Court's Oversight of the Constitutionality of Laws

The Constitutional Court requires a mechanism to activate its oversight of legal texts, which is achieved through a notification process. This notification can either be political, initiated by a political body, or judicial³, made through referral by judicial bodies. Accordingly, this section will address political notification as a mechanism to activate oversight of the constitutionality of laws (First

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requirement) and judicial notification as a mechanism to activate oversight of the constitutionality of laws (second requirement)

First requirement: **Political Notification as a Mechanism to Activate Oversight of the Constitutionality of Laws**

The Constitutional Court's oversight is activated through political notification, exercised by specific political bodies as outlined in Article 193 of the 2020 Algerian Constitutional Amendment. These bodies include:

1/ The President of the Republic:

The President of the Republic exercises two types of notifications: discretionary and mandatory.

1. Discretionary Notification:

This is provided for in the first paragraph of Article 193 of the 2020 Algerian Constitutional Amendment:

"The Constitutional Court is notified by the President of the Republic..."

This type of notification pertains to the activation of constitutional oversight over treaties, laws, and regulations⁴.

2. Mandatory Notification:

The President of the Republic exercises mandatory notification to activate the Constitutional Court's oversight over:

- Organic laws and the internal regulations of the two parliamentary chambers⁵, which is a prerogative exclusive to the President of the Republic⁶.
- Legislative orders issued by the President of the Republic in urgent matters during the vacancy of the National People's Assembly or parliamentary recess⁷.

2/ The Presidents of the Two Chambers of Parliament:

The Algerian constitutional legislator involved the legislative authority in activating constitutional oversight by granting both the President of the Council of the Nation and the President of the National People's Assembly the authority to exercise notification, as stipulated in Article 193 of the 2020 Algerian Constitutional Amendment:

"The Constitutional Court is notified by...the President of the Council of the Nation or the President of the National People's Assembly..."

3/ The Prime Minister or Head of Government, Depending on the Case:

The Algerian constitutional legislator first granted the Prime Minister authority to activate oversight of the Constitutional Council (as it was then called) in the 2016⁸ amendment under Article 187:

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"The Constitutional Council is notified by...the Prime Minister..."

This approach was maintained in the 2020 constitutional amendment, allowing the Prime Minister or Head of Government (depending on the case) to activate constitutional oversight through the notification power granted to them under Article 193 of the same amendment:

"The Constitutional Court is notified by...the Prime Minister or Head of Government, depending on the case..."

4/ Members of the National People's Assembly and the Council of the Nation:

Under the 2020 constitutional amendment, the Algerian constitutional legislator involved members of the National People's Assembly and the Council of the Nation in activating constitutional oversight. This was achieved by granting the authority to notify the Constitutional Court to forty (40) members of the National People's Assembly or twenty-five (25) members of the Council of the Nation, as stipulated in paragraph 2 of Article 193 of the 2020 Algerian Constitutional Amendment:

"... It can also be notified by forty (40) deputies or twenty-five (25) members of the Council of the Nation..."

It is noteworthy that the 2020 amendment reduced the number of deputies and members required to exercise notification powers. Previously, under the 2016 Constitution, constitutional oversight could be activated by fifty (50) deputies or thirty (30) members of the Council of the Nation, as per paragraph 2 of Article 187:

"... It can also be notified (then the Constitutional Council) by fifty (50) deputies or thirty (30) members of the Council of the Nation..."

This reduction is a positive step by the constitutional legislator. Lowering the number of required deputies and members increases the likelihood of activating the Constitutional Court's oversight, thereby contributing to the realization of a state governed by the rule of law.

second requirement:: Judicial Notification as a Mechanism to Activate Oversight of the Constitutionality of Laws

The Algerian constitutional legislator introduced judicial notification under the 2016⁹ constitutional amendment, following the French model established in Article 61-1 of the amended and supplemented 1958 French Constitution. This mechanism was retained in the 2020 Algerian constitutional amendment¹⁰.

This innovation introduced a new method for activating oversight of the constitutionality of legislative and regulatory text¹¹: the plea of unconstitutionality. This mechanism allows for referral from the relevant higher judicial body—either the Supreme Court or the Council of State¹²—to the Constitutional Court. This occurs when a party to a legal proceeding claims that the legislative or

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regulatory provision relevant to the case infringes their constitutional rights and freedoms. The Constitutional Court then examines the matter to issue a ruling¹³.

Both the constitutional legislator and the Algerian legislator have outlined specific conditions that must be met for a valid plea of unconstitutionality, including the following:

1/ The Plea Must Be Raised by a Party to the Dispute or an Interested Party:

For a plea of unconstitutionality to be valid, it must be raised by one of the litigants during a legal proceeding. Additionally, Organic Law No: 22-19 allows any interested party to raise a plea of unconstitutionality. Article 22 of the law states:

"Any interested party may intervene in the process of raising a plea of unconstitutionality before the relevant judicial authority by submitting a separate, written, and reasoned memorandum in accordance with the provisions of Articles 19 and 21 of this organic law, before the judicial authority issues its decision on referring the plea of unconstitutionality. If the request is accepted, the intervening party is subject to the same procedures as the litigants."

2/ The Plea of Unconstitutionality Must Be Submitted in a Separate, Written, and Reasoned Memorandum:

This requirement applies both before judicial authorities, as stipulated in Article 19 of Organic Law No: 22-19, and before the Constitutional Court, as outlined in Article 39 of the same law. This ensures that the plea is clear, detailed, and supported by legal reasoning.

These conditions are aimed at ensuring the effectiveness and credibility of the judicial notification process in activating oversight of the constitutionality of laws¹⁴.

3. The Plea Must Depend on the Challenged Legislative or Regulatory Provision or That Provision Must Form the Basis of Legal Proceedings:

According to Article 21 of Organic Law No: 22-19, which outlines the procedures for notification and referral to the Constitutional Court:

"A plea of unconstitutionality is referred to the Supreme Court or the Council of State, as applicable, if the following conditions are met:

The resolution of the dispute depends on the challenged legislative or regulatory provision, or that provision forms the basis of legal proceedings..."

4/ No Prior Declaration of Constitutionality

A plea of unconstitutionality cannot challenge a legislative or regulatory provision that the Constitutional Court has already reviewed and declared constitutional. This is because the decisions of the Constitutional Court¹⁵ are final, binding, and cannot be appealed.

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However, if circumstances have changed, a plea of unconstitutionality may be raised against a legislative or regulatory provision previously declared constitutional by the Constitutional Court. This exception is outlined in Article 21 of Organic Law No: 22-19:

"A plea of unconstitutionality is referred to the Supreme Court or the Council of State, as applicable, if the following conditions are met:

The legislative or regulatory provision being challenged has not previously been declared constitutional by the Constitutional Council or the Constitutional Court, except in cases of changed circumstances..."

5. The Argument Raised Must Be Serious

The ordinary or administrative judge hearing the plea of unconstitutionality must assess the seriousness of the claim based on their expertise and legal knowledge. If the judge determines that the claim is serious, they must refer it to the Constitutional Court to determine its constitutionality. This is also specified in Article 21 of Organic Law No: 22-19:

"A plea of unconstitutionality is referred to the Supreme Court or the Council of State, as applicable, if the following conditions are met:

The argument raised is serious."

The Algerian legislator has granted judges full discretion to assess the seriousness of the plea of unconstitutionality. A plea may even be raised if there is merely a doubt about the constitutionality of the provision.

Additional Provisions

In addition to the conditions outlined above, the provisions of the Civil and Administrative Procedure Code and the Criminal Procedure Code apply before judicial bodies where a plea of unconstitutionality is raised. Article 18 of Organic Law No: 22-19 states:

"Subject to the provisions of this organic law, the provisions of the Civil and Administrative Procedure Code and the Criminal Procedure Code apply before judicial bodies where a plea of unconstitutionality is raised."

THE SECOND TOPIC : Types of Constitutional Oversight of Laws and Their Effects

One of the primary responsibilities of the Constitutional Court is to rule on the constitutionality of legal texts. Constitutional oversight of laws is diverse and results in several legal effects, regardless of the type of oversight. This section addresses the types of constitutional oversight of laws in First requirement, followed by an examination of their effects in second requirement.

First requirement: **Types of Constitutional Oversight of Laws**

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According to Article 190 of the 2020 Algerian Constitutional Amendment, the Constitutional Court exercises four types of oversight: Constitutional Oversight, Compatibility Oversight, Conformity Oversight, and Oversight through a Plea of Unconstitutionality.

First. Constitutional Oversight

The Constitutional Court issues rulings on the constitutionality of treaties, laws, and regulations as per the first paragraph of Article 190 of the 2020 Algerian Constitutional Amendment:

"In addition to the powers explicitly conferred upon it by other provisions of the Constitution, the Constitutional Court rules on the constitutionality of treaties, laws, and regulations..."

Accordingly, constitutional oversight applies to the following:

a. Oversight of the Constitutionality of Treaties

The Constitutional Court may be notified regarding the constitutionality of treaties before their ratification, as stated in the second paragraph of Article 190 of the 2020 Algerian Constitutional Amendment:

"The Constitutional Court may be notified regarding the constitutionality of treaties before their ratification..."

Furthermore, under the 2020 Constitutional Amendment, the Algerian constitutional legislator requires the President of the Republic to seek the opinion of the Constitutional Court on armistice agreements and peace treaties. This obligation is established in Article 102:

"The President of the Republic signs armistice agreements and peace treaties.

The President of the Republic shall seek the opinion of the Constitutional Court regarding agreements related to them..."

2. Oversight of the Constitutionality of Laws:

The Constitutional Court may be notified regarding the constitutionality of ordinary laws¹⁶ before their issuance, as stated in the second paragraph of Article 190 of the 2020 Algerian Constitutional Amendment:

"The Constitutional Court may be notified regarding the constitutionality of laws before their issuance..."

Additionally, the Court may be notified about the constitutionality of laws (legislative texts) after their issuance through a plea of unconstitutionality, as stipulated in Article 195 of the 2020 Algerian Constitutional Amendment:

"The Constitutional Court may be notified through a plea of unconstitutionality based on a referral from the Supreme Court or the Council of State, when one of the parties in a trial before a judicial body claims that the legislative provision upon which the outcome of the dispute depends violates their rights and freedoms guaranteed by the Constitution..."

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2. Oversight of the Constitutionality of Ordinances:

The constitutional legislator subjected ordinances issued by the President of the Republic in urgent matters, either during the absence of the People’s National Assembly or during parliamentary recess, to the oversight of the Constitutional Court. This is done through a mandatory referral by the President of the Republic. The Court is obligated to rule on the constitutionality of such ordinances within a maximum of ten (10) days, as per Article 142 of the 2020 Algerian Constitutional Amendment:

"The President of the Republic may legislate by ordinances in urgent matters during the absence of the People’s National Assembly or during parliamentary recess. The President of the Republic shall mandatorily notify the Constitutional Court regarding the constitutionality of these ordinances, which must be ruled upon within a maximum period of ten (10) days..."

3. Oversight of the Constitutionality of Regulations:

The Constitutional Court may be notified regarding the constitutionality of regulations within one month from the date of their publication, as per the third paragraph of Article 190 of the 2020 Algerian Constitutional Amendment:

"The Constitutional Court may be notified regarding the constitutionality of regulations within one month from the date of their publication..."

Additionally, the Court may also be notified through a plea of unconstitutionality, as stipulated in Article 195 of the 2020 Algerian Constitutional Amendment:

"The Constitutional Court may be notified through a plea of unconstitutionality based on a referral from the Supreme Court or the Council of State, when one of the parties in a trial before a judicial body claims that the regulatory provision upon which the outcome of the dispute depends violates their rights and freedoms guaranteed by the Constitution..."

Thus, regulations are subject to post-implementation constitutional oversight exercised by the Constitutional Court¹⁷

Second: Compatibility Oversight

In accordance with the principle of the supremacy of treaties over legal texts¹⁸, the Algerian constitutional legislator introduced the oversight of the compatibility of laws and regulations with treaties. The Constitutional Court rules on this compatibility for the first time under the latest constitutional amendment of 2020, as stipulated in the fourth paragraph of Article 190:

"The Constitutional Court shall rule on the compatibility of laws and regulations with treaties, under the conditions specified in paragraphs 2 and 3 above."

Thus, the constitutional legislator subjected laws and regulations to review for their compatibility with treaties but excluded organic laws and legislative ordinances from this new type of oversight¹⁹.

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Third: Conformity Oversight

The Constitutional Court is tasked with overseeing the conformity of organic laws and the internal rules of the two chambers of Parliament with the Constitution. This oversight is mandatory upon notification by the President of the Republic, as stated in paragraphs 5 and 6 of Article 190 of the latest constitutional amendment of 2020:

"The President of the Republic shall mandatorily notify the Constitutional Court regarding the conformity of organic laws with the Constitution after their approval by Parliament...

The Constitutional Court shall rule on the conformity of the internal rules of each chamber of Parliament with the Constitution in accordance with the procedures mentioned in the previous paragraph."

Fourth: Oversight Through a Plea of Unconstitutionality

This is a subsequent type of oversight that occurs after the enactment and implementation of legislative and regulatory texts. Constitutional oversight is triggered by referral from the Supreme Court or the Council of State based on a claim that the legislative or regulatory provision upon which the dispute depends violates the constitutionally guaranteed rights and freedoms of one of the litigants, as stipulated in Article 195 of the 2020 Algerian Constitutional Amendment:

"The Constitutional Court may be notified through a plea of unconstitutionality based on a referral from the Supreme Court or the Council of State, when one of the parties in a trial before a judicial body claims that the legislative or regulatory provision upon which the outcome of the dispute depends violates their rights and freedoms guaranteed by the Constitution.

When the Constitutional Court is notified under the above paragraph, its decision shall be issued within four (4) months following the date of its notification. This period may be extended once for a maximum of four (4) additional months by a reasoned decision from the Court, which shall be communicated to the judicial body that referred the matter."

Second requirement: Effects of Oversight on the Constitutionality of Laws

The Constitutional Court makes its decisions by a majority of the members present, and in case of a tie, the president's vote prevails, except for decisions related to the oversight of organic laws, which require an absolute majority of members²⁰.

After deliberating in a closed session, the Constitutional Court issues its decisions within thirty (30) days from the date of notification. This period is reduced to ten (10) days in case of urgency upon the request of the President of the Republic²¹.

As a result of the constitutional oversight carried out by the Constitutional Court on legal texts, several legal effects arise, which vary depending on the type of oversight. These effects are as follows:

First: Effects of Oversight on the Constitutionality of Treaties, Laws, and Regulations

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A treaty or agreement cannot be ratified if the Constitutional Court rules that it is unconstitutional, as per the first paragraph of Article 198 of the 2020 constitutional amendment:

"If the Constitutional Court decides that a treaty or agreement is unconstitutional, it shall not be ratified."

Similarly, legal texts cannot be ratified if the Constitutional Court rules that they are unconstitutional, according to the second paragraph of Article 198 of the same constitutional amendment:

"If the Constitutional Court decides that a law is unconstitutional, it shall not be issued."

If the Constitutional Court decides that an ordinance or regulation is unconstitutional, it loses its effect starting from the day the Court's decision is issued, according to the third paragraph of Article 198 of the 2020 constitutional amendment:

"If the Constitutional Court decides that an ordinance or regulation is unconstitutional, it loses its effect starting from the day the Court's decision is issued."

Second: Effects of Oversight on Conformity

The Constitutional Court decides on the conformity of both organic laws and the internal rules of the two chambers of Parliament with the Constitution through a constitutional decision, which either affirms their conformity or declares them non-conformant, as stated in Article 190 of the latest constitutional amendment of 2020:

"The President of the Republic must mandatorily notify the Constitutional Court regarding the conformity of organic laws with the Constitution after their approval by Parliament, and the Court shall rule on the entire text."

The Constitutional Court rules on the conformity of the internal rules of each chamber of Parliament with the Constitution..."

If the Constitutional Court affirms the conformity of an organic law or the internal rules of the chambers of Parliament with the Constitution, these texts will be published. However, if the Court rules that they do not conform to the Constitution, they will not be issued, and they must be reconsidered and re-examined for conformity with the Constitution.

Third: Effects of Oversight on Unconstitutionality Plea

When the Constitutional Court rules that a legislative or regulatory text is unconstitutional, following a judicial plea of unconstitutionality, that text loses its effect starting from the day specified in the Court's decision, according to the fourth paragraph of Article 198 of the latest 2020 Algerian constitutional amendment, which states:

"If the Constitutional Court decides that a legislative or regulatory text is unconstitutional based on Article 195 above, it loses its effect starting from the day specified in the Court's decision."

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Fourth: Effects of Oversight on the Conformity of Laws and Regulations with Treaties

The constitutional founder did not specify the effects resulting from the oversight of the conformity of legal and regulatory texts with treaties, instead only determining the effects of constitutional oversight in general, whether related to the conformity of legal and regulatory texts with the Constitution or their compliance with treaties, as implied in the third paragraph of Article 198 of the latest Algerian constitutional amendment. Despite this, it would have been preferable for the constitutional founder to define the effects resulting from the conformity oversight explicitly and independently, as it was introduced for the first time²².

Decisions of the Constitutional Court acquire the status of being final and binding, as they cannot be appealed. They are also binding on all public, administrative, and judicial authorities, as affirmed by the constitutional founder in the final paragraph of Article 198 of the 2020 Algerian constitutional amendment, which reads:

"The decisions of the Constitutional Court are final and binding on all public authorities, administrative authorities, and judicial authorities."

Conditions of Publication:

In implementing the principle of the rule of law, legal texts—whether organic laws, ordinary laws, treaties, or regulations—are subject to constitutional review by the Constitutional Court, which exercises various forms of oversight over them. This oversight is only triggered through notifications from political bodies or a judicial plea of unconstitutionality. The oversight of the constitutionality of laws has a range of legal effects, and the decisions of the Constitutional Court are binding on all administrative, judicial, and public authorities.

Based on our study of this topic, we have reached several key conclusions, which are as follows:

- Legislative decrees issued by the President of the Republic are subject to constitutional review by the Constitutional Court.
- The constitutional founder has reduced the number of parliamentary deputies and members who can initiate oversight of the constitutionality of regulations, based on the 2020 Algerian constitutional amendment, which is a positive step toward strengthening the review of the constitutionality of regulations and, thus, realizing the rule of law.
- The constitutional founder introduced the mechanism of a plea of unconstitutionality as a means to trigger oversight of the constitutionality of laws for the first time in the Algerian legal system under the 2016 constitutional amendment. This mechanism was maintained in the 2020 amendment,

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which saw an expansion of the scope of the plea, now including regulatory rulings alongside legislative ones.

- The formalization of the plea of unconstitutionality before ordinary and administrative judicial bodies allows for broader use of this mechanism, ensuring the protection of individual rights and freedoms, and thus reinforcing oversight of the constitutionality of legislative and regulatory texts.

- The constitutional founder introduced oversight of the conformity of legal and regulatory texts with treaties for the first time in the 2020 constitutional amendment.

Based on the results we have reached, we propose the following recommendations:

- Establish a clearer criterion for assessing the condition of the seriousness of the plea of unconstitutionality raised before the judicial body.

- Raise awareness among individuals about their right to raise a plea of unconstitutionality against laws that violate their constitutional rights and freedoms.

- We suggest reducing the timeframes for processing the plea of unconstitutionality, both within judicial bodies and the Constitutional Court.

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- Law No: 16-01 dated March 6, 2016, containing the Algerian Constitutional Amendment, Official Gazette, Issue No. 14, dated March 7, 2016.

- Presidential Decree No: 20-442 dated December 30, 2020, regarding the publication of the constitutional amendment approved in the referendum of November 1, 2020, Official Gazette, Issue No: 82, dated December 30, 2020.

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¹- Presidential Decree No: 20-442 of December 30, 2020 promulgating the constitutional amendment, ratified in the referendum of November 1, 2020, Official Gazette No: 82, dated December 30, 2020.

²- Organic Law No: 22-19 of July 25, 2022, laying down the procedures and modalities for notification and referral to the Constitutional Court, Official Journal of the Algerian Democratic Republic, n°: 51, of July 31, 2022.

³- Mouloud Didan, *Investigations in Constitutional Law and Political Systems*, Dar Belkis, Algeria, 2017, page 80.

⁴- Gharbi Ahsan, *Oversight of the constitutionality of laws under the constitutional amendment of 2020*, *Journal of Rights and Human Sciences*, Issue 04, 2020, page 30.

⁵- According to the fifth (5) and sixth (6) paragraphs of Article 190 of the same Algerian constitutional amendment of 2020:

The President of the Republic shall obligatorily notify the Constitutional Court of the conformity of organic laws ... " with the Constitution after they have been ratified by Parliament, and the Constitutional Court shall rule on a ..decision on the entire text

The Constitutional Court shall rule on the conformity of the rules of procedure of each of the two Houses of Parliament with the Constitution, in accordance with the procedures mentioned in the preceding paragraph." - Salima Misrati, *The System of Monitoring the Constitutionality of Laws in Algeria*, Dar Houma for Printing, Publishing and Distribution, Algeria, 2012, p. 65 The Constitutional Court shall rule on the conformity of the rules of procedure of each House of Parliament with the Constitution, in accordance with the procedure mentioned in ".the preceding paragraph

⁶- Salima Misrati, *The System of Monitoring the Constitutionality of Laws in Algeria*, Dar Houma for Printing, Publishing and Distribution, Algeria, 2012, page 65.

⁷- Article 142 of the last constitutional amendment of 2020:

The President of the Republic may initiate by orders urgent matters in the event of a vacancy in the People's " National Assembly or during a parliamentary recess ... The President of the Republic shall obligatorily notify the

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Constitutional Court of the constitutionality of such orders, which shall rule on them within a maximum period of "...ten (10) days

⁸- Law No: 16-01 of March 6, 2016, containing the Algerian constitutional amendment, Official Gazette No: 14, of March 7, 2016.

⁹ -According to the text of Article 188 of the Algerian constitutional amendment of 2016:

The Constitutional Council may be notified of a plea of unconstitutionality on the basis of a referral by the " Supreme Court or the Council of State, when one of the parties to the trial claims before a judicial body that the legislative provision on which the outcome of the dispute depends violates the rights and freedoms guaranteed by the Constitution.. The terms and conditions for the application of this paragraph shall be determined by an 'organic law."

¹⁰- Article 61/1 de La constitution de républiquefrançais, de 04 octobre 1958, adoptée 28 septembre 1958, modifiépar la loiconstitutionnelle No: 2008-724, du 23 juillet 2008, Journal Officiel France, N°171,24/07/2008:"When, in the course of proceedings pending before a court, it is argued that a legislative provision infringes the rights and freedoms guaranteed by the Constitution, the matter may be referred to the Constitutional Council upon referral from the Council of State or the Court of Cassation, which shall rule within a specified period.

An organic law shall determine the conditions for the application of this Article'.

¹¹- In light of the Algerian constitutional amendment of 2016, the founder of the constitution introduced the mechanism of pleading unconstitutionality and linking it to legislative texts only, but in light of the 2020 amendment, he expanded the scope of its practice to include the mechanism of defense of unconstitutionality - regulatory texts in addition to legislative. See: Mokhtaria Meftah-Mohamed Boujana, Independent Organization in the Light of the Developments of the Algerian Constitutional Amendment of 2020, Journal of Jurisprudence, No: 28, Biskra, 2021, p. 630..

¹² -Said BouChaer, The Constitutional Council of Algeria, University Press Office, Algeria, 2008, page 246.

¹³ -According to the text of Article 195 of the Algerian constitutional amendment of 2020:

The Constitutional Court may be notified of a plea of unconstitutionality upon referral by the Supreme Court or " the Council of State, when one of the parties to the trial before a judicial authority claims that the legislative or regulatory provision on which the outcome of the dispute depends violates his rights and freedoms guaranteed by ..the Constitution

¹⁴- Adel Dhouadi, The defense of unconstitutionality as a mechanism to protect taxpayers in Algeria - after the constitutional amendment of 2016, Journal of Legal and Political Sciences, Issue 16, Algeria, 2017, page 339.

¹⁵ -The last paragraph of the text of Article 198 of the 2020 Constitutional Amendment promulgated by Presidential Decree No: 20-442 states: "... If the Constitutional Court decides that a legislative or regulatory provision other than the Constitution on the basis of Article 195 above shall cease to have effect from the day fixed by the decision of the Constitutional Court."

¹⁶ -stipulated in Article 153 of the Algerian constitutional amendment of 2020: "The President of the Republic shall ratify armistice agreements, peace treaties, alliance and union, treaties relating to the borders of the State, treaties relating to the law of persons, treaties involving expenditures not included in the State budget, and bilateral or multilateral agreements on free trade and partnership areas and economic integration, after being expressly approved by each chamber of parliament."

¹⁷- Meftah Mokhtaria-Boujana Mohamed, The Legislative Competence of the President of the Republic in the Constitutional Amendment of 2020, Journal of Legal and Social Sciences, Issue 03, Djelfa, 2021, page 261.

¹⁸ -Article 154 of the last Algerian constitutional amendment of 2020: "Treaties ratified by the President of the Republic, in accordance with the conditions provided for in the Constitution, take precedence over the law."

¹⁹-Gharbi Ahsan, Oversight of the Constitutionality of Laws under the Constitutional Amendment of 2020, Journal of Law and Political Science, Volume 13, Issue 04, Khenchela, 2020, page 27.

²⁰ -According to Article 197 of the last Algerian constitutional amendment of 2020: "The decisions of the Constitutional Court shall be taken by the majority of its members present, and in the event of an equal number of votes, the vote of the President shall prevail. Decisions concerning the control of organic laws shall be taken by an absolute majority of the members."

²¹- Article 194 of the same Algerian constitutional amendment of 2020:

The Constitutional Court shall deliberate in closed session and issue its decision within thirty (30) days from the " date of its notification, and in the event of an emergency, at the request of the President of the Republic, this period ..shall be reduced to ten (10) days

“Oversight of the Constitutionality of Laws in Light of the Algerian Constitutional Amendment 2020 and Organic Law No: 22-19” – M.Meftah (Algeria)

²² -SalimaFazlan, Forms of Constitutional Control and the Repercussions of Enhancing Constitutional Security in Light of the 2020 Constitutional Amendment, Journal of Legal and Social Sciences, Vol. 6, No. 3, Djelfa, 2021, page 66.



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