Journal of Science and Knowledge Horizons

ISSN 2800-1273-EISSN 2830-8379

The Constitutional Court in Algeria- Critical Analytical Study-

BOULAGOUAS Ibtissem

Abbas Lagrour University - Khenchela- (Algeria),

boulagouas.ibtissem@univ-khenchela.dz

https://orcid.org/0009-0008-9027-6049

Date of send: 17 / 04 / 2024	date of acceptance: 27/05/2024	Date of Publication: 30/06/2024

Abstract:

The constitutional amendment of 2020 brought about many reforms, primarily the establishment of the Constitutional Court as an independent constitutional institution responsible for ensuring the respect of the constitutional document. The Constitutional Court replaced the Constitutional Council, which was established by the previous Algerian constitutions starting from that of 1963 to that of 2016, except for the constitution of 1976 which did not provide for the establishment of an institution to guarantee the supremacy of the constitutional document. This study evaluates the constitutional reforms that affected the constitutional body responsible for control over the constitutionality of laws, regarding their form and competency.

Keywords: Constitutional Court; formation; competencies; independence; exemption of constitutionality.

*** BOULAGOUAS Ibtissem**

Introduction:

The Constitution is considered the highest document in the State, as it determines the form of the State and its governance system on one hand, and defines the public authorities and the relationship between them, as well as the fundamental rights and freedoms of citizens, on the other hand[1].

Given the importance of the Constitution, it is imperative to establish mechanisms to protect it. Perhaps the most important mechanism for protecting the constitutional document is the oversight of the constitutionality of laws. Such oversight, which is among the foundations of the state of law, contributes to ensuring the supremacy of the constitutional document on one hand, and to protecting the fundamental rights and freedoms guaranteed by the constitutional document, on the other hand.

In order to guarantee the supremacy of the constitution, the Algerian constitutional founder adopted control over the constitutionality of the laws through the Constitutional Council. It had been enshrined by all the Algerian constitutions. However, due to the issues in the practice of the constitutional competencies by the Constitutional Council, the Algerian constitutional founder shifted towards control over the constitutionality of the laws through the Constitutional Court, as provided for by the constitutional amendment of 2020. This shift was accompanied by many reforms through which the Algerian constitutional founder aimed to enhance the role of the Constitutional Court in ensuring respect for the constitution and adherence to its provisions on the one hand, and to ensure effective constitutional protection of human rights and fundamental freedoms, on the other hand. Additionally, there was a desire to regulate the functioning of institutions and the activities of public institutions.

This study shows the main reforms that touched the constitutional body assigned with the control over the constitutionality of the laws, regarding its form or competency. In so doing, we raise the following research question, **"to what extent did the constitutional amendment of 2020 strengthen the role of the Constitutional Court in practicing its constitutional competencies?"** To answer this research question, we use the analytical and descriptive methods because they suit our study. Besides, we divide the study into two chapters; the 1st revolves around the study of the constitutional amendments of the

Constitutional Court regarding the organic aspect, while the 2nd chapter is about the constitutional amendments regarding the objective aspect.

First: the constitutional amendments in the Constitutional Court regarding the organic aspect

We shall focus on four points. The 1st is the formation of the Constitutional Court, the 2nd is the conditions of its membership, the 3rd is the period of membership, and the 4th is the guarantees of its members' independence.

1. The constitutional amendments of the Constitutional Court regarding the formal aspect:

The constitutional amendment of 2020 shows that the Constitutional Court includes 12 members. 04 members are appointed by the President of the Republic, 02 are elected by the judicial branch –one by the Supreme Court from its members and the other by the State Council from its members-, and 06 are elected by the teachers of the Constitutional Law[2]. In this regard, 02 seats are devoted for each regional session[3] and the President of the Republic determines the conditions and methods of their election[4]. According to the constitutional reforms in the Constitutional Court, we find that the Algerian constitutional founder empowered two authorities of appointing and electing the members of the Constitutional Court, namely the executive and judicial branches. In this context, he excluded the legislative branch, unlike the previous constitutions that granted it the prerogatives of electing the members of the Constitutional Council from its members.

The exclusion of the legislative branch can be justified from two perspectives. The 1st is to guarantee the neutrality of the Constitutional Court when exercising its constitutional tasks and the 2nd is to promote the provisions of Article 187 of the constitutional amendment of 2020 that requires the non-affiliation to any party. This condition cannot be achieved in reality if the legislative branch is allowed to elect the members of the Constitutional Court because most of its members have political affiliations.

The affiliation of the members of the Constitutional Court to a specific political orientation is something that would affect the decisions of the Constitutional Court. This is because, in most cases, they may not be free from political sympathies[5], therefore, if not likely, that apart from possible ideological

alignments, constitutional judges often have a sense of personal loyalty to the party leader that provided an important opportunity for career advancement and membership in the Constitutional Court[6].

This issue has been demonstrated in practice in many countries, such as Spain, where the results showed that the constitutional judges chosen under the leadership of Zapatero reflected a strong influence of loyalty to the party leader, which was not observed in the same way for other judges[7].

Besides, the Algerian constitutional founder did not balance the constitutional authorities that elect or appoint the members of the Constitutional Court. In this context, the President of the Republic appoints more members than the judicial branch does. This shows a clear change from the constitutional amendment of 2016, where the Algerian constitutional founder enshrined the balance between the three branches when forming the Constitutional Council by assigning each branch of appointing 04 members each of them[8].

As for the **method of electing the members of the Constitutional Court**, the Algerian constitutional founder adopted the election and appointment. This is a good point because the elections alone would imply the notion of political pressures on the Constitutional Court by the party that elected the members, and the appointment alone would imply the pressure of the party that appointed the members. Thus, the mixed method is the optimal solution, as long as there are guarantees of neutrality of the Constitutional Court; as the Algerian constitutional founder did[9].

If the Constitutional Court is formed through appointment, it may come under the pressure of personal loyalty to the authority that appointed its members. This has been demonstrated in practice by many comparative experiences, especially in the United States, where practical reality has shown that judges of the Federal Supreme Court often exhibit personal loyalty to the president who appointed them[10]. This undermines the independence of this constitutional institution. Therefore, it is advisable to select members of the Constitutional Court through a combination of election and appointment methods.

Moreover, there are diverse parties that elect and appoint the members. Therefore, the neutrality and competency of the members are high. In this regard, granting the executive authority alone the right to form the Constitutional Court

may bring about dependence because the members know that their persistence in their positions depends on their reappointment by the executive branch. Thus, their neutrality and independence are low[11]. Consequently, it is necessary to choose the members of the Constitutional Court far from the intervention of the executive and legislative branches, i.e., by granting the judicial branch the authority to choose the members of the Constitutional Court[12].

As for granting the President of the Republic the authority to appoint the head of the Constitutional Court, it affects the efficiency of the Court when exercising its constitutional competencies because of the importance of the position of the head of the Constitutional Court since his vote is the final decision in case of equal votes[13]. Besides, he substitutes the President of the Republic in case of a presidential vacuum that coincides with the vacuum in the position of head of the House of Commons[14]. In addition, he has an advisory role for the President of the Republic when declaring an exceptional state[15], war[16], embargo, and emergency[17], dissolving the National Popular Assembly, or making early votes[18]. Thus, given the importance and specificity of the position of the head of the Constitutional Court, the Algerian constitutional founder should grant the members of the Constitutional Court the right to choose their president to guarantee the neutrality and independence of the Constitutional Court.

Article 187 of the constitutional amendment of 2020 provides for a set of conditions for the members of the Constitutional Court. In this regard, in addition to the previous conditions, the head of the Constitutional Court must meet the conditions of candidature for president of the republic mentioned in Article 87 of the constitutional amendment, except the age, because he substitutes the President of the Republic in case of a presidential vacuum that coincides with vacuum in the presidency of the house of commons. As for the elected teachers in the Constitutional Court, they must meet the previous conditions, have taught constitutional law for at least 05 years, and have scientific contributions in the field. Besides, they must be working in universities when declaring candidature and proving experience of more than 20 years in higher education. Furthermore, they must not be subject to a restrictive sanction, except the involuntary misdemeanor. Finally, they must not have been members of any political party during the last 03 years before the elections[19].

In this context, the constitutional amendment of 2020 included positive aspects like the conditions that must be met by the members of the Constitutional Court such as increasing the age from 40 to 50, unlike the case of the constitutional amendment of 2016[20], and the political neutrality. However, the Algerian constitutional founder should have limited the maximum age of the members to 70 to guarantee the effective practice of the competencies. Moreover, the authority of the President of the Republic to determine the conditions of electing the teachers of the constitutional law by a presidential decree is one of the aspects that affect the independence of the Court because it increases his dominance in the formation of the Constitutional Court.

3. The constitutional amendments of the Constitutional Court regarding the period of membership:

The Algerian constitutional founder reduced the period of membership in the Constitutional Court to 06 years after it had been 08 years in the constitutional amendment of 2016[21]. Besides, he provided for the renovation of half of the members every 03 years, except the president of the Constitutional Court who is appointed by the President of the Republic for non-renewable 06 years[22]. In this regard, despite that the renewal of the members every 03 years injects competency and skills into the Constitutional Court, it may hinder the good performance of its tasks.

4. The constitutional amendments of the Constitutional Court regarding strengthening the guarantees of its members' independence:

The Algerian constitutional founder provided a set of guarantees to the members of the Constitutional Court to exercise their tasks neutrally, mainly limiting the term to 06 years[23] and making the oath **in front of the president of the Supreme Court[24]** instead of the President of the Republic, as was the case in the Constitutional Council[25]. This implies the efforts of the constitutional founder to promote the neutrality and independence of the members of the Constitutional Court, as they pledge to commit to neutrality and not take any flagrant stance towards any issue subject to the competency of the Constitutional Court[26]. Moreover, he granted the members the immunity as members, not persons, to freely exercise their constitutional tasks without any criminal or civil accountability, and be safe from any criminal proceedings without permission of the Constitutional Court[27].

The members enjoy **objective** immunity regarding the exercise of their tasks, and **procedural** immunity regarding the judicial prosecution after making tasks unrelated to their work, unless with an explicit waiver of the immunity and the permission of the Constitutional Court[28]. In this case, the request of abolishing the immunity for the penal prosecution is made by the Minister of Justice[29]. In this context, the member may voluntarily waive the immunity through a written declaration to the president of the Constitutional Court. Then, the members of the Constitutional Court immediately gather and record the waiver of the immunity[30]. In case he does not waive it, the members meet and hear the member who can defend himself. Then, the Constitutional Court settles the issues in the briefest deadlines without the presence of the concerned member[31].

Second: the constitutional amendments of the Constitutional Court regarding the objective aspect:

The constitutional amendment of 2020 included many reforms regarding the work of the Constitutional Court. However, it has many drawbacks, as we shall discuss.

1. **Widening the fields of the Constitutional Court intervention:**

Although the constitutional founder guarantees the independence of constitutional institutions when exercising their constitutional competencies, this independence is not absolute but rather relative. This is because the constitutional founder subjects the laws, internal regulations, international treaties, regulations, and orders issued by these constitutional institutions to constitutional review. This review can be mandatory or optional, and it can occur before or after the law is issued. All of this aims to ensure that constitutional institutions operate in accordance with the provisions of the constitution on one hand, and to enhance the guarantees of a state governed by the rule of law, on the other hand.

The constitutional amendment of 2020 widened the fields of the Constitutional Court intervention, as it can control the constitutionality of the orders[32] and the correspondence of the laws and regulations to the conventions[33], interpret the constitutional provisions, settle the disputes among the constitutional branches after the Constitutional Council had been assigned with controlling the constitutionality of the conventions, laws, regulations, and the rules of procedure of the two chambers of the parliament[34], and settle the electoral disputes[35]. This is

a good point as the Algerian constitutional founder widened the fields of the intervention and deadline of notification since the previous constitutions neglected this. Besides, the Constitutional Court is notified about the constitutionality of the conventions before ratifying them and the laws before issuing them.

The Constitutional Court is notified about the regulations within a month of their publication, and about the organic laws and rules of procedure of the two chambers of the parliament after the parliament ratifies them. Regarding the control of the correspondence of the laws and regulations with the international conventions, the Constitutional Court is notified about the laws before their issuance and about the regulations after their publication[36]. As for the orders, they raise an issue, as the constitutional founder did not identify the deadline for notifying the Constitutional Court about them; rather, he just determined the deadline for considering their constitutionality by the Constitutional Court to 10 days[37].

The effect of the decision of the Constitutional Court regarding the constitutionality of the orders shows that notifying the Constitutional Court is after their issuance because it is provided that the effect of ruling the unconstitutionality of the orders leads to loss of force since the issuance of the Constitutional Court decision[38]. This is part of the posterior control because the prior control bans the issuance of the order while the posterior raises the exception of constitutionality[39]. However, the applicable measure is that the orders of the President of the Republic are subjected to the prior control, such as the case of Order 21-21 on the Organic Law of Elections[40] and Order 23-01 that supplements and complements Law 13-05 on the organization and development of the sport and physical activities[41]. Moreover, the constitutional founder did not subject the rules of procedure of the rest of the constitutional institutions to the control of the constitutionality. In this regard, he should have enshrined the control of the Constitutional Court on them because they may include provisions that contradict the Constitution.

2. Cancelling the right of the Constitutional Court to the automatic banning of the investigation of the un/constitutionality of the laws:

The Organic Law 22-19 granted the Constitutional Court the authority the automatic banning of the investigation of the un/constitutionality of the laws,

including the laws related to the text subject to notification. In this regard, the Constitutional Court must limit itself to the text subject to notification and cannot cancel the investigation of the constitutionality of other provisions in any text it was not notified about, even if there is a direct relation between the text and the provisions subject to notification[42]. This is an explicit abolition of the case of the Constitutional Council, which could face other provisions of the text subject to notification or another text it was not notified about as long as it has a relation with the text subject to notification[43]. This weakens the efficiency of the Constitutional Court in guaranteeing the supremacy of the Constitution and in protecting constitutional rights and freedoms.

3. Reducing the quorum of notifying the Constitutional Court and its limits in promoting its role:

The constitutional amendment of 2020 maintained the same bodies that have the right of the direct or indirect notification of the Constitutional Court. However, it reduced the quorum of notifying the Constitutional Court to 40 members of the National Popular Assembly or 25 members of the House of Commons[44], unlike the case of the Constitutional Council which was 50 members of the National Popular Assembly or 30 members of the House of Commons[45]. Nevertheless, we must point out that despite reducing the quorum, the low competency and experience decreased their role in notifying the Constitutional Court regarding the control of the constitutionality of the laws. In this regard, the practice showed the formal refusal of the Constitutional Court to the notifications from the members of the National Popular Assembly without tackling their contents because the members notified it about fields that are exclusive to the President of the Republic and after the issuance of the law.

The Constitutional Court received a notification from 100 members of the National Popular Assembly to investigate the constitutionality of the provisions of Articles 09, 12, 15, and 20 of Law 22-02 on the formation, organization, conduct, and tasks of the Algerian Academy for Sciences and Technology. It refused it regarding the object because Article 190/02 of the constitution provided for notifying the Constitutional Court about the laws before their issuance; in their case, the law had been issued by the President of the Republic on 25 April 2022[46]. Moreover, it received a notification from 48 members of the National Popular

Assembly regarding the correspondence of the Organic Law on the organization of the National Popular Assembly and the House of Commons to the constitution.

The Court formally refused the notification because the President of the Republic alone can notify it about the organic laws. Thus, the members violated Article 190/5 of the constitution, leading to the formal refusal of the notification[47]. In addition, the Court received a notification from 48 members of the National Popular Assembly about the control of the constitutionality of Article 04 of the organic law on the media, after they had seen that the Article is not constitutional because it deprives the Algerian double-nationality competencies from founding, possessing, or sharing capitals of the media institutions and contradicts with Articles 35, 37, and 65 of the constitution. Nevertheless, the Constitutional Court refused it, as the notification about the organic laws is exclusive to the President of the Republic. Thus, it was formally refused[48].

We must point out that despite the formal refusal by the Court, and after being notified by the President of the Republic, it studied the constitutionality of only Articles 2 and 8 and neglected Article 4 which the members believed was unconstitutional. Thus, the Court declared the constitutionality of the rest of the Articles, including Article 04 without showing the reasons behind its decision[49]. The control of the Constitutional Court is highly based on the formal aspect, which negatively affects the efficiency of the Constitutional Court in controlling the constitutionality of the laws.

4. Excluding the judicial authority from the direct referral to the Constitutional Court:

In embodiment of the requirements of participatory democracy, the constitutional amendments of 2016 and 2020 allowed the indirect notification of the Constitutional Court based on a referral from the Supreme Court or the State Council when one of the litigants claims that the legislative or organizational law that governs the case violates his constitutional freedoms and rights[50]. The constitutional founder widened the range of the exception of constitutionality to cover the regulations, which refer to the independent organizational texts issued by the President of the Republic in exercising his organizational authority in the issues that the law cannot regulate. The regulations are subject to the exemption of constitutionality and legality; the latter is exercised by administrative justice in other cases. In addition, the executive organizational provisions that are part of

the competency of the prime minister or the head of the government are subject to administrative justice[51].

We must point out that the path followed by the constitutional founder regarding the subjection of the legislative and organizational provisions to the exception of constitutionality strengthens the role of the Constitutional Court in protecting constitutional freedoms and rights. However, it excludes the organic laws because they are subject to compulsory correspondence to the constitution by the Constitutional Court before their issuance in the official gazette[52]. Moreover, we find that the Algerian constitutional founder, despite recognizing individuals, and within the framework of embodying participatory democracy, has granted individuals the right to challenge the constitutionality in order to protect their rights and freedoms guaranteed by the constitution.

However, the Algerian constitutional founder disallowed the citizens from taking advantage of the Constitutional Court decision when the judicial parties settled the cases without waiting for the decision of the Supreme Court, the State Council, or the Constitutional Court, and when using all the plea methods.

The provisions of the organic law 22-19 show that the Algerian legislator explicitly provided that the competent judicial party does not delay settling the case when the plaintiff is under a restrictive sanction because of the case, when the case aims at restricting his freedom, as long as he does not contest this, or when the law provides for settling the case within limited deadlines or urgently[53]. In this case, to promote the role of the Constitutional Court in protecting the freedoms and rights, it is necessary to find mechanisms that allow the individuals to take advantage of the decision of the Constitutional Court on the unconstitutionality of law before settling the case. This is known as the reserve constitutional case which refers to the judicial measure that protects basic freedoms and rights after using all the legal methods to abolish the law[54].

Moreover, the constitutional fonder restricted the range of the parties who have the right to raise the exception of constitutionality to the litigants and excluded the general prosecutor and the lawyers despite that the general prosecutor is part of the case. Besides, he disallowed the judge from raising the exception of constitutionality and referring the law to the Supreme Court, the State Council, or the Constitutional Court as is the case in Egypt. This weakens the efficiency of the exception of constitutionality in protecting freedoms and rights.

The constitutional founder aimed at adopting judicial control on the constitutionality of the laws. This gives the judges the authority of direct contact with the Constitutional Court to investigate the un/constitutionality of the laws that govern the case if the law raises the question about its un/constitutionality, as is the case in Egypt where the Judicial Courts (ordinary, administrative, or military) and bodies have the right to refer any legal text or regulation to the Constitutional Court to consider its constitutionality. This shows the will of the legislator to enshrine the commitment of the judicial provisions to the correct constitutional rules[55]. In this regard, the judge is the one who knows more than the litigants about the potential unconstitutionality of the text that governs the case, and he must adopt the higher legal rule instead of the lower. Thus, he needs the authority of referral to the Constitutional Court so as not to apply a text he believes is not constitutional[56].

5. The Constitutional Court's will to correct the constitutionality of the vague provision instead of ruling its unconstitutionality:

Sometimes, the Constitutional Court shows standard interpretative reservations when considering the constitutionality of the laws under notification[57]. These reservations substitute the ruling of unconstitutionality[58] and make the legal text constitutional. However, despite the Constitutional Court issues reservations about some provisions in the text under the notification, the reservations are not respected despite that the Constitutional Council had confirmed many times that when it is declared that the text subject to notification corresponds to the constitution, as long as the interpretative reservation is considered, the interpretation is binding to all the public, administrative, and judicial authorities[59].

The practical examples of not respecting the interpretative reservations of the Constitutional Council include the reservation on the condition of the elections law that the candidate for the Wilaya and municipal assemblies, the National Popular Assembly, and the House of Commons is not known for his relation to business, illicit acts, and effect on the free choice of the electors and the good conduct of the elections. In this regard, the Constitutional Council considered that this provision includes unclear points that cannot be easily proven and may lead to the violation of basic rights because it did not identify the legal mechanisms that prove these acts. Therefore, the Constitutional Council considered this

provision constitutional as long as it does not exclude the guarantees mentioned in Article 34 of the Constitution[60]. The Constitutional Council corrected the constitutionality of the vague provision in Order 21-01 instead of its abolition. In this context, it made sure to provide a good interpretation of the constitutionality without expansion in the interpretation.

Conclusion:

Upon this study, we reached a set of findings and recommendations.

First: the findings

- The constitutional founder tried to make a giant leap in the body in charge of the control of the constitutionality of the laws through many legal and constitutional reforms in the formation and competencies.
- Despite that the Constitutional Court adopted interpretative reservations in its practice of the constitutional competencies to avoid issuing decisions on the unconstitutionality of the texts subject to notification; the public authorities must respect this reservation to guarantee strengthening the protection of the freedoms, rights, and supremacy of the constitution.

Second: suggestions of the study

- It is necessary to change the method of appointing the head of the Constitutional Court and to grant this right to the members.
- The constitutional founder must adopt the reserve constitutional case to strengthen the protection of constitutional freedoms and rights.
- The constitutional founder must grant the right of the automatic banning of the investigation of the un/constitutionality of the laws that are not subject to notification to promote the role of the Constitutional Court in controlling the constitutionality of the laws; provided that the laws are related to the law under notification.
- The Constitutional Court must shift towards the exception of constitutionality instead of reserved interpretations to promote the protection of freedoms and rights and ban the issuance of laws that may violate the Constitution.

Bibliography List :

Constitutions

- constitutional amendment of 2020 issued by the Presidential Decree 20-442 of 30/12/2020 on the issuance of the constitutional amendment ratified by the referendum of 01 November 2020, official gazette 82 of 30/12/2020
- the constitutional amendment of 2016 issued by Law 16-01 of 06/03/2016 on the constitutional amendment, official gazette 14 of 07/03/2016.

the organic law

- the organic law 22-19 of 25 July on the methods and procedures of notification and referral adopted by the Constitutional Court, official gazette 51 of 31 July 2022.

the Presidential Decree

- the Presidential Decree 21-304 of 04 August 2021 on the conditions and methods of electing the constitutional law teachers as members of the Constitutional Court, official gazette 60 of 05 August 2021.

Decision

- Decision01 / c.c.d/23 of 03 August 2023 on the control of the constitutionality of the order that supplements and complements Law 13-05 on the organization and development of the sport and physical activities, official gazette 52 of 09 August 2023.
- Decision 02/c.c.d/c.c.o/ of 02 May 2023 on the control of the correspondence of the organic law that supplements and complements the organic law 16-12 of 25 August 2016 on the formation, work, and relation of the National Popular Assembly and the house of commons with the government.
- Decision 03/c.c.d/c.c.o/ of 02 May 223 on the control of the correspondence of Article 04 of the organic law on the media to the constitution.
- Decision 04/c.c.d/c.c.o/ 23 of 06 August 2023 on the control of the correspondence of the organic law on the media to the constitution.
- Decision 06/c.c.d/c.c.o/22 of 28 July 2022 on the control of the constitutionality of Articles 09, 12, 15, and 20 of Law 22-02 of 25 April 2022 on the formation, organization, conduct, and tasks of the Algerian Academy for Sciences and Technology.
- Decision 16/c.c.d/c.c.o/21 of 10 March 2021 on the control of the constitutional the order on the organic law of the elections system, official gazette 17 of 10 March 2021.

Opinion

- Opinion 01/c.c.d/i.c/ 24 of 16 January 2024 on the interpretation of a phrase in paragraph 01 of Article 165 and in Article 141 of the constitution.

the rules of procedure of the Constitutional Court

– the rules of procedure of the Constitutional Court, official gazette 78 of 13 November 2022.

the system that determines the rules of the Constitutional Council work

– the system that determines the rules of the Constitutional Council work, official gazette 42 of 30 July 2019.

Books

– Soujette Chaudhry & Katherine Glenn Payees, the Constitutional Courts after the Arab Spring- mechanisms of appointment and the relative judicial independence, New York, the international institution for democracy and elections, 2014.

Journal article

– Abd al Ghani Bessiouni Abdellah, the competency of the Supreme Constitutional Court in controlling the constitutionality of the laws and regulations, Journal of Laws for Economic and Legal Researches, Vol. 02, No° 01, 1996.

– Boulagouas Ibtissem, Precautionary Constitutional Lawsuit as a Mechanism to Engage the Constitutional Court: Example of Germany and Spain, Journal of the Legal and Economic Studies, Vol. 05, No° 01, 2022.

– Hanan Mohamed al Kaissi, the legal system of the blogs of the parliamentary behavior, Vol. 01, Egypt, the Arab Center for Scientific Studies and Researches for Publication and Distribution, 2017.

– Jan Falkowski, Jacek Lewkowicz, are adjudication panels strategically selected? The case of Constitutional Court in Poland, International Review of Law and Economics, 65(2021).

– Mohamed Mounir Hassani, the interpretative policy in the Algerian constitutional jurisprudence, compared to the French constitutional jurisprudence, Journal of the International Kuwaiti Faculty of Laws, year 09, No° 22, ISBN 34, 2021.

– Morad Radawi, the interpretative reservations and their applications in the Algerian jurisprudence, Journal of the Researcher Teacher for the Legal and Political Studies, Vol. 07, No° 02, 2022.

– Nuno Garoupa, Marian Gili, Fernando Gomez Pomar, loyalty to the party or loyalty to the party leader: evidence from the Spanish Constitutional Court, International Review of Law and Economics,67(2021).

– Othmane Abd al-Malik al Saleh, the judicial control in front of the Constitutional Court in Kuwait –critical analytical study, Vol. 01, Journal of Laws, Vol. 10, No° 03, Kuwait, 1986.

– Petru Maior, the role of Remain Constitutional Court in protecting and promoting human fundamental rights and freedoms, Procedia- Social and Behavioral Sciences, 46(2012).

[1] Petru Maior, the role of Remain Constitutional Court in protecting and promoting human fundamental rights and freedoms, Procedia- Social and Behavioral Sciences, 46(2012),p 5549.
[2] Article 186 of the constitutional amendment of 2020 issued by the Presidential Decree 20-442 of 30/12/2020 on the issuance of the constitutional amendment ratified by the referendum of 01 November 2020, official gazette 82 of 30/12/2020.
[3] Article 03 of the Presidential Decree 21-304 of 04 August 2021 on the conditions and methods of electing the constitutional law teachers as members of the Constitutional Court, official gazette 60 of 05 August 2021.
[4] Article 186 of the constitutional amendment of 2020, op. cit.
[5] Jan Falkowski, Jacek Lefkowitz, are adjudication panels strategically selected? The case of Constitutional Court in Poland, International Review of Law and Economics, 65(2021), P02
[6] Nuno Garoupa, Marian Gili, Fernando Gomez Pomar, loyalty to the party or loyalty to the party leader: evidence from the Spanish Constitutional Court, International Review of Law and Economics,67(2021), P06.
[7] Nuno Garoupa, Marian Gili, op. cit , p 10
[8] Article 183 of the constitutional amendment of 2016 issued by Law 16-01 of 06/03/2016 on the constitutional amendment, official gazette 14 of 07/03/2016.
[9] Soujette Chaudhry & Katherine Glenn Payees, the Constitutional Courts after the Arab Spring-mechanisms of appointment and the relative judicial independence, New York, the international institution for democracy and elections, 2014, p. 30.
[10] Nuno Garoupa, Marian Gili, op. cit p 06
[11] Soujette Chaudhry & Katherine Glenn Payees, op. cit., p. 30.
[12] Othmane Abd al-Malik al Saleh, the judicial control in front of the Constitutional Court in Kuwait –critical analytical study, Vol. 01, Journal of Laws, Vol. 10, No° 03, Kuwait, 1986, p. 17.
[13] Article 197/01 of the constitutional amendment of 2020, op. cit.
[14] Article 101/04 of the constitutional amendment of 2020, op. cit.
[15] Article 98 of the constitutional amendment of 2020, op. cit.
[16] Article 100 of the constitutional amendment of 2020, op. cit.
[17] Article 97 of the constitutional amendment of 2020, op. cit.
[18] Article 151 of the constitutional amendment of 2020, op. cit.
[19] Article 09 of the Presidential Decree 21-304, op. cit.
[20] Article 184 of the constitutional amendment of 2016, op. cit
[21] Article 183 of the constitutional amendment of 2016, op. cit.
[22] Article 188/02 of the constitutional amendment of 2020, op. cit.
[23] Article 188/02 of the constitutional amendment of 2020, op. cit.
[24] Article 186 of the constitutional amendment of 2020, op. cit.
[25] Article 183 of the constitutional amendment of 2020, op. cit.
[26] Article 186 of the constitutional amendment of 2020, op. cit.
[27] Hanan Mohamed al Kaissi, the legal system of the blogs of the parliamentary behavior, Vol. 01, Egypt, the Arab Center for Scientific Studies and Research for Publication and Distribution, 2017, p. 1063.
[28] Article 189 of the constitutional amendment of 2020, op. cit.

[29] Article 23 of the rules of procedure of the Constitutional Court, official gazette 78 of 13 November 2022.
[30] Article 24 of the rules of procedure of the Constitutional Court, op. cit.
[31] Article 25 of the rules of procedure of the Constitutional Court, op. cit.
[32] Article 142/02 of the constitutional amendment of 2020, op. cit.
[33] Article 190/04 of the constitutional amendment of 2020, op. cit.
[34] Article 186/01 of the constitutional amendment of 2016, op. cit.
[35] Article 182 of the constitutional amendment of 2016, op. cit.
[36] Article 190 of the constitutional amendment of 2020, op. cit.
[37] Article 142/02 of the constitutional amendment of 2020, op. cit.
[38] Article 198/03 of the constitutional amendment of 2020, op. cit.
[39] Article 198/2-3 of the constitutional amendment of 2020, op. cit.
[40] Decision 16/c.c.d/c.c.o/21 of 10 March 2021 on the control of the constitutionality of the order on the organic law of the elections system, official gazette 17 of 10 March 2021.
[41] Decision 01/ c.c.d/ 23 of 03 August 2023 on the control of the constitutionality of the order that supplements and complements Law 13-05 on the organization and development of the sport and physical activities, official gazette 52 of 09 August 2023.
[42] Article 04 of the organic law 22-19 of 25 July on the methods and procedures of notification and referral adopted by the Constitutional Court, official gazette 51 of 31 July 2022.
[43] Article 05 of the system that determines the rules of the Constitutional Council work, official gazette 42 of 30 July 2019.
[44] Article 193 of the constitutional amendment of 2020, op. cit.
[45] Article 187/02 of the constitutional amendment of 2016, op. cit.
[46] Decision 06/c.c.d/c.c.o/22 of 28 July 2022 on the control of the constitutionality of Articles 09, 12, 15, and 20 of Law 22-02 of 25 April 2022 on the formation, organization, conduct, and tasks of the Algerian Academy for Sciences and Technology.
[47] Decision 02/c.c.d/c.c.o/ of 02 May 2023 on the control of the correspondence of the organic law that supplements and complements the organic law 16-12 of 25 August 2016 on the formation, work, and relation of the National Popular Assembly and the House of Commons with the government.
[48] Decision 03/c.c.d/c.c.o/of 02 May 223 on the control of the correspondence of Article 04 of the organic law on the media to the constitution.
[49] Decision 04/c.c.d/c.c.o/ 23 of 06 August 2023 on the control of the correspondence of the organic law on the media to the constitution.
[50] Article 195/01 of the constitutional amendment of 2020, op. cit.
[51] Opinion 01/c.c.d/i.c/ 24 of 16 January 2024 on the interpretation of a phrase in paragraph 01 of Article 165 and in Article 141 of the constitution.
[52] Article 190/05 of the constitutional amendment of 2020, op. cit.
[53] Articles 26-27-34 of the organic law 22-19, op. cit.
[54] Boulagouas Ibtissem, Precautionary Constitutional Lawsuit as a Mechanism to Engage the Constitutional Court: Example of Germany and Spain, Journal of the Legal and Economic Studies, Vol. 05, No° 01, 2022, p. 1186.
[55] Abd al Ghani Bessiouni Abdellah, the competency of the Supreme Constitutional Court in controlling the constitutionality of the laws and regulations, journal of laws for economic and legal researches, Vol. 02, No° 01, 1996, p. 42.
[56] Ibid, p. 43.

[57] Morad Radawi, the interpretative reservations and their applications in the Algerian Jurisprudence, Journal of the Researcher Teacher for the Legal and Political Studies, Vol. 07, No° 02, 2022, p. 904.
[58] Mohamed Mounir Hassani, the interpretative policy in the Algerian constitutional jurisprudence, compared to the French constitutional jurisprudence, journal of the international Kuwaiti Faculty of Laws, year 09, No° 22, ISBN 34, 2021, p. 576.
[59] Morad Radawi, op. cit., p. 909.
[60] Decision 16/21 of 10 March 2021 on the control of the constitutional order on the organic law of the elections system, official gazette 17 of 10 March 2021.