



## Specialized Commercial Judiciary: The Specialized Commercial Court in Algeria as a Model

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**Abstract:** Specialized commercial courts represent an important mechanism for addressing the growing complexity of commercial transactions. Algeria has established such courts to handle commercial disputes more efficiently and improve the quality of judicial decisions. Their jurisdiction covers disputes related to commercial contracts, companies, and banking transactions. This specialization enhances judges' expertise and contributes to the stability of commercial relations. It also strengthens investors' confidence in the national judicial system. However, challenges remain, particularly regarding specialized training and procedural delays. Therefore, continuous development of this judicial model is essential to ensure greater effectiveness and support economic growth.

**key words:** Specialized Commercial Judiciary, Commercial Courts, Commercial Disputes, Commercial Transactions.

### Introduction:

The judiciary constitutes a fundamental pillar in the construction of a modern constitutional state, embodying the rule of law while safeguarding rights, liberties, and the stability of transactions. Given the evolution of economic activities and the growing complexity of commercial relations, there arose a pressing need for a specialized judicial system. Such a system must keep pace with the unique nature and rapid momentum of commercial dealings, possessing the requisite expertise to adjudicate disputes with efficiency and precision. Indeed, litigation in commercial matters demands a profound understanding of the intricacies of market dynamics, contracts, and trade mechanisms.

The shift toward a specialized commercial judiciary reflects the legislator's intent to balance economic efficiency with judicial guarantees, thereby fostering confidence in the business environment and incentivizing investment. Consequently, numerous legal systems have established specialized courts or divisions. This necessitated the adoption of legislative policies designed to regulate commercial disputes of a specific nature, emphasizing the simplification of

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procedures and the acceleration of the adjudicatory process. Amidst economic liberalization, the encouragement of private enterprise, and the drive to attract foreign capital, the establishment of such judicial bodies has become an urgent necessity.

Most comparative jurisdictions have moved toward independent commercial judiciaries to ensure the swift resolution of disputes, aligned with the dynamic nature of the business world. These systems prioritize procedural efficiency and cost reduction to serve commercial interests. The French legal system stands as a pioneer in this field, with a rich history of practice.<sup>1</sup> In harmony with these global trends and to improve the investment climate, the Algerian legislator has enshrined a specialized judicial system to oversee commercial disputes. This aims to provide effective settlement mechanisms that uphold speed and credit—the dual foundations of commercial activity. Thus, Algeria has adopted a model of specialized commercial judiciary inspired by the French experience while accounting for its national legal particularities.<sup>2</sup>

Accordingly, studying specialized commercial courts is vital as they represent a modern response to the evolving requirements of economic life. This study defines the legal framework and jurisdiction of these courts, representing a qualitative advancement in commercial justice that supports and organizes the economic environment .

The central problem of this article is:

**To what extent does the specialized commercial court, as a model for specialized commercial judiciary, embody economic justice and ensure legal security for commercial transactions?**

To address this question, the article analyzes the evolution of the commercial judiciary, the justifications for its specialization, its organizational structure, and the Algerian experience in establishing these courts through the following axes:

- **First Topic :** The General Framework of the Specialized Commercial Judiciary.
- **Second Topic:** The Specialized Commercial Court in Algerian Legislation..

## **THE FIRST TOPIC : The General Framework of the Specialized Commercial Judiciary.**

The commercial judiciary embodies judicial specialization based on the nature of transactions, distinguishing it from the civil judiciary, which governs general legal relations. Defining its significance is essential to understanding the justifications for its emergence.

### **1)FIRST REQUIREMENT: Definition and Significance of the Specialized Commercial Judiciary**

Legal scholars have defined the commercial judiciary in various ways. Some describe it as the judicial apparatus specialized in adjudicating disputes arising from trade practices or between

<sup>1</sup> - Legendre, Kristell. *Commercial Courts*. Revue juridique de l'Ouest, No. 4, 2013, pp. 436–438.

<sup>2</sup> - Rabia, Zahia. "The Evolution of Commercial Disputes in the Algerian Judicial System." *Journal of Politic and Law*, Vol. 16, No. 2, 2024, pp. 93–102



merchants. Others view it as a system designed to achieve commercial justice through flexible and expedited rules suited to transactions based on credit and trust.<sup>1</sup>

The particularities of commercial relations—namely speed and risk—necessitate a judiciary consistent with these requirements. The commercial judiciary seeks a balance between legal stability and economic dynamism.

Its significance lies in ensuring confidence; an investor only engages in the market when assured that an effective judicial system protects their rights and settles disputes competently. The importance of the commercial judiciary is evident in:

**1- Ensuring the Stability of Commercial Transactions:** Given the time required to resolve disputes that may disrupt economic activity, the specialized commercial judiciary is considered one of the most important pillars of economic stability and the protection of the business environment. By ensuring the rapid adjudication of commercial disputes, it achieves a set of integrated legal and economic goals aimed at mitigating the negative effects of disputes on economic activity. Delays in resolving commercial cases may lead to the disruption of projects, the freezing of funds, or damage to the reputation of institutions, whereas rapid adjudication enables parties to resume their activities with minimal losses and without disturbances.<sup>2</sup>

**2- Enhancing Confidence In The Business Environment:** This is achieved through a specialized judiciary that possesses a deep understanding of the nature of commercial transactions. When investors and merchants are assured of the existence of a specialized judiciary capable of protecting their rights within reasonable timeframes, it enhances market confidence and encourages the expansion of commercial exchanges and investments, thereby achieving legal security and stability in commercial relations. Speed in issuing judgments reduces cases of ambiguity and uncertainty that may destabilize contractual relations and entrenches the principle of legitimate expectation for economic operators. The speed of procedures and the effectiveness of the specialized judiciary are considered among the most important criteria relied upon by investors to evaluate the business environment in any country, as they are closely linked to the attractiveness of the national economy.<sup>3</sup>

**3- Adapting the Judiciary to Commercial Particularities:**

Specialized judges in commercial matters possess in-depth knowledge of legal rules and commercial customs, allowing them to adjudicate disputes rapidly and effectively without compromising the quality of judgments. They contribute to the development of commercial law through judicial precedents that keep pace with market developments and modern technologies. Furthermore, the existence of a judiciary specialized in commercial matters serves as a mechanism to ensure the realization of economic justice, as it provides judges with competence in a complex field requiring precise knowledge of concepts such as companies, bankruptcy, commercial papers, and banking contracts.<sup>4</sup> The specialized commercial judiciary not only

<sup>1</sup> - Al-Mawla, Imad Hashem Saadoun. "The Legal Organization of the Formation of Commercial Courts in Iraqi Law and Comparative Law." *Al-Kufa Law Journal*, No. 26, Faculty of Law, University of Kufa, Iraq, p. 49.

<sup>2</sup> - Hadj Ben Ali, Mohamed, and Maghrebi, Kouider. "Towards a Specialized Commercial Judiciary in Algeria." *Journal of Law and Political Science*, Abbas Laghrour University, Khenchela, No. 9, January 2018, p. 62.

<sup>3</sup> - Said, Laqleeb, and Noui, Mohamed. "The Justifications for Establishing Specialized Commercial Courts in Algerian Legislation." *Tebna Journal of Academic Scientific Studies*, Vol. 6, No. 2, p. 492

<sup>4</sup> - Said, Laqleeb, and Noui, Mohamed, Op cit, p. 490.



achieves justice between parties but also plays a regulatory and developmental role in maintaining stability and providing a safe and encouraging legal environment for investment.

## **2) SECOND REQUIREMENT: Justifications for Adopting a Specialized Commercial Judiciary**

The emergence of the specialized commercial judiciary dates back quite some time in comparative systems, even if it is considered recent in Algerian legislation. The justifications or reasons for the existence of this type of judiciary lie in the nature of the disputes themselves and the effectiveness of the judiciary in resolving them.

### **1- Technical Complexity of Transactions:**

Commercial relations differ from civil relations in several fundamental aspects, most importantly that they are based on credit, speed, and recurrence, making them more prone to disputes that require practical understanding and technical knowledge. Modern trade deals with financial instruments, banking institutions, and complex digital markets—fields that require judges who understand their technical details, such as stock market operations, electronic contracts, or international commercial arbitration. Consequently, the existence of a judiciary specialized in commercial matters ensures the achievement of justice within a framework of deep understanding of the nature of these transactions,<sup>1</sup> which cannot be achieved within the ordinary judiciary that may lack the necessary technical expertise.

### **2- The Need for Expediency:**

Speed is considered one of the most prominent features that the commercial judiciary must possess, as the prolonged duration of a judicial dispute may cause heavy losses to the merchant and result in a loss of confidence in the entire judicial system. For this reason, legislators in comparative systems have been keen to simplify procedures before the commercial judiciary, designate rapid sessions, and ease the formal restrictions applicable before the civil judiciary. It is noted that this objective is one of the most important justifications that led France to establish independent commercial courts since the nineteenth century, whereas Algeria later adopted the idea of establishing specialized commercial courts to reduce the burden and accelerate the pace of adjudicating economic disputes.<sup>2</sup>

### **3- Legal Security and Investment Promotion:**

Legal security is closely linked to confidence in the judiciary. Whenever the judiciary is specialized, effective, and transparent, the sense of security among economic actors increases. Hence, commercial courts are considered a strategic tool in improving the business climate and

<sup>1</sup> - Hamza Ahmed and Bensalem Ahmed Abderrahman, THE SPECIALIZED COMMERCIAL COURT IN ALGERIA: LEGISLATIVE DEVELOPMENT IN LINE WITH THE REQUIREMENTS OF COMMERCIAL LIFE, The journal of El-Ryssala for studies and research in humanities, Volume : 09, N° : 04, 2024,p162.

<sup>2</sup> - Said, El-Bah. "Specialized Commercial Courts: A Step Toward Specialized Judiciary in Algerian Legislation." *Al-Bahith Journal for Academic Studies*, Vol. 11, No. 2, 2024, p. 492.



attracting investments, especially foreign ones, because they reassure the investor that the state possesses a specialized judicial apparatus capable of protecting their commercial interests in accordance with international justice standards.<sup>1</sup>

### **3) Third Requirement : Emergence and Development of Specialized Commercial Courts**

It seems necessary and appropriate to return to the historical roots of this institution to understand its present in light of its long past before addressing its organization and jurisdiction. Commercial courts have a long history extending to Italy in the twelfth and thirteenth centuries during the period known as the "Commercial Revolution". Commercial activity then was relatively new, witnessing rapid expansion in a world dominated by feudalism, an agricultural economy, and a strict ecclesiastical system—conditions that were unfavorable and sometimes hostile to trade. Faced with these difficulties, merchants sought to settle their disputes themselves within their professional organizations. Alongside the ordinary judiciary, they established specialized courts known as "Consular Courts," with the first model appearing in Italy.

In the same period, special courts for trade fairs (les foires) existed in France, which specialized in disputes related to commercial deals concluded during them. The goal of these special courts was to adjudicate commercial disputes based on the commercial customs and habits of merchants, within a professional, fast, and low-cost framework to facilitate business movement and commercial exchanges<sup>2</sup>.

The French model of commercial courts appeared in the sixteenth century when the French monarchy exerted significant legislative effort to develop economic and commercial structures. A court was established under the name (Bourse) in Toulouse in 1549, then in Paris in 1563. These were consular courts merged into the royal judicial system as exceptional judicial bodies. Since then, the French monarchy began expanding the scope of establishing consular courts, continuing until the eve of the French Revolution. This legal integration was confirmed by the issuance of the 1667 decree regarding civil procedures, then the 1673 decree regarding land trade. These consular courts possessed special organizational and procedural rules and were characterized by being composed of judges elected from among the merchants themselves .

During the French Revolution and with the major judicial reform of 1790, these courts underwent a radical transformation in their structure and role within the French judicial system. Only the consular courts were able to continue their existence over time, gradually transforming into commercial courts without any interruption in their activity. This places us before judicial bodies operating with the same momentum for nearly five centuries, forming ancient judicial traditions with long roots. Despite their ancient traditions, they have also lived through a history full of challenges and continuous reviews. The purpose of their establishment is to achieve the public interest and shorten the duration of lawsuits and disputes between merchants who are supposed to deal in good faith without being subject to the complexities of laws and decrees. Accordingly, the members of this court are merchants elected from among their peers .<sup>3</sup>

<sup>1</sup> - Delebecque, Philippe. *Commercial Law – Commercial Acts, Traders and Commercial Courts*. 10th ed., LGDJ, Paris, 2022, p. 115.

<sup>2</sup> - Armand-Prévost, M. "The Consular Jurisdiction: From the History of the Institution to Its Present Situation." *Revue de jurisprudence commerciale*, December 1999, p 2.

<sup>3</sup> - Jean Hilaire, Introduction : Perspectives historiques de la juridiction commerciale ,Histoire de la justice ,2007/1, N ° 17, p12.



The court follows special, simple procedures aimed at being fast and low-cost. Lawyers, notaries, and judicial deputies were excluded from these procedures, as parties are required to appear personally before the court without mediation, and judges must issue their judgment immediately whenever possible based on their honor and professional conscience as consular judges.

These summary procedures were supposed to be conducted without the formalities of traditional litigation. As much as possible, the consular court was independent of the authority of the civil courts, as it was specialized in hearing disputes between merchants related to commercial transactions, adjudicating them as a first and final instance body simultaneously.

In the nineteenth century, the influence of commercial courts was no less important than in previous centuries; rather, they had a prominent role in developing legislation, especially during the period of commercial law renewal in the second half of the century. They often contributed to paving the way for the precedents of higher courts, where they were credited with opening the way for the development of the judicial liquidation system parallel to bankruptcy and contributed to expanding the protection of debtors of commercial papers. Thus, they had a direct influence on shaping French legislative policy in this commercial field.<sup>1</sup>

It can be said that the so-called "French model" of commercial courts has evolved significantly, moving far from the form in which it was born in the mid-sixteenth century. The expansion of the Electoral College caused the old guild system to disappear completely, and elected judges were no longer only from the ranks of merchants. Although judicial procedures retained their special character, they became more complex with the evolution of the law .

The most important reforms the French commercial judiciary underwent came with the Judicial Organization Law of 1958, and then with Law No. 2016-1547 issued on November 18, 2016, known as the "Justice in the 21st Century" law (Justice du XXI<sup>e</sup> siècle), which came to modernize the tasks of commercial courts and simplify procedures before them<sup>2</sup>.

A prominent feature of the French commercial judiciary is that the judges are not professional judicial employees, but rather elected merchants with practical experience. This model makes them more aware of the nature of commercial disputes and more flexible in handling files.

This practical character reflects positively on the quality of decisions, especially in complex technical matters such as commercial credit operations or financial management of companies. The choice of judges from the merchants themselves is justified by their being the most capable of understanding the particularities of commercial transactions and their practical methods, which grants the French commercial judiciary a practical, realistic character rather than a purely theoretical one. A president elected from among the commercial judges heads the court, assisted by deputies and judicial delegates. The court also includes a clerk (greffier du tribunal de commerce) who supervises commercial registers and enforcement procedures. The president of the commercial court serves as a summary proceedings judge (juge des référés), with the authority to issue:

Ex parte orders (Ordonnances sur requête).

<sup>1</sup> - Ibid,p13.

<sup>2</sup> - Law No. 2016-1547 of 18 November 2016 on the modernization of justice in the 21st century, *Journal Officiel de la République Française (JORF)*, No. 0269, 19 November 2016



Payment orders (Injonctions de payer).

Judicial administrative measures.

Precautionary measures and their discharge (Mesures conservatoires et mainlevée).

Commercial courts in France are experiencing a new phase of transformation and reform. Starting from January 1, 2025, the "Economic Activities Court" (Tribunal des Activités Économiques) is being piloted in certain territories. The objective is to measure the interest of having a single court to treat all amicable and collective proceedings for professionals whose activity encounters difficulties. A jurisdiction currently shared between the commercial court and the judicial court. The treatment of amicable and collective proceedings has so far been shared between the judicial court and the commercial court. In principle, only merchants and artisans fall under the jurisdiction of the commercial court. Amicable and collective proceedings concerning other professions fall under the jurisdiction of the judicial court.

From January 1, 2025, to December 31, 2028, 12 commercial courts are renamed Economic Activities Courts (TAE): Avignon, Auxerre, Le Havre, Le Mans, Limoges, Lyon, Marseille, Nancy, Nanterre, Paris, Saint-Brieuc, and Versailles. These 12 TAEs absorb certain competencies of the judicial courts and become solely competent to treat safeguard proceedings (procédure de sauvegarde), judicial reorganization (redressement judiciaire), judicial liquidation (liquidation judiciaire), and amicable proceedings for all professionals regardless of their status and activity. The only exception: regulated legal professions, which still fall under the jurisdiction of the judicial court.

The Economic Activities Court is composed of consular judges of the commercial court, judges practicing the profession of agricultural operator, and clerks of the commercial court. The applicable law is not modified. The objective of this experimentation is to measure the interest of having a single court to treat all amicable and collective proceedings. A committee composed of experts and parliamentarians is tasked with submitting an evaluation report to Parliament before July 1, 2028.<sup>1</sup>

## **THE SECOND TOPIC : The Specialized Commercial Court in Algerian Legislation**

Economic and social developments have compelled Algerian society to adopt a new legislative policy through the enactment of modern laws consistent with these transformations, aiming to serve the national economy and accelerate development. This orientation also stems from a recognition of the specific nature of commercial disputes and their distinct characteristics compared to standard procedures in civil disputes, particularly regarding the simplification of litigation procedures. Today, it has become crucial to re-evaluate methods for resolving commercial disputes to align with the legal and economic challenges imposed by the current reality. Hence, the necessity of establishing specialized commercial courts arose as a measure aimed at enhancing justice in matters related to business and trade.

### **1) FIRST REQUIREMENT: Historical Evolution of the Commercial Judiciary in Algeria**

<sup>1</sup> - Decree No. 2024-1225 of 30 December 2024 concerning the experimentation of the contribution for economic justice, *JORF*, No. 0309, 31 December 2024.



Following independence in 1962, Algeria adopted a unified judicial system, abolishing the judicial duality inherited from French colonialism. However, the need for a specialized judiciary in commercial matters persisted. Ordinance No. 66-154 of June 8, 1966, containing the former Civil and Administrative Procedure Code, was the first text to acknowledge the existence of commercial divisions within ordinary courts. Subsequently, Law No. 08-09, containing the new Civil and Administrative Procedure Code, was enacted, officially enshrining the concept of judicial specialization. Article 32 thereof stipulated the possibility of establishing specialized poles. These specialized courts were established pursuant to Article 6 of Law No. 22-07 regarding judicial division,<sup>1</sup> which stated: "Specialized commercial courts shall be established within the jurisdiction of certain judicial councils".

It is understood from this provision that the establishment of these courts is limited to specific judicial councils determined by regulation, as Executive Decree No. 23-53 provided for the determination of the territorial jurisdiction of these courts. The establishment of these courts was reaffirmed pursuant to Article 28 of Organic Law No. 22-10 regarding judicial organization,<sup>2</sup> in addition to Law No. 22-13, which amended and supplemented the Civil and Administrative Procedure Code,<sup>3</sup> in Chapter Four titled: "The Commercial Division and the Specialized Commercial Court." This was effected by adding Articles 536 bis to 536 bis 7 and amending Articles 533, 534, and 535. Upon reviewing this amendment, it is observed that the Algerian legislator retreated from the collective composition regarding the commercial division, which is now composed of a single judge, unlike the specialized commercial court which maintains a collective composition consisting of a judge and assistants with extensive knowledge of commercial matters and a deliberative vote.

## **2) SECOND REQUIREMENT: Composition of the Specialized Commercial Court and Its Territorial Jurisdiction.**

The Algerian legislator undertook the establishment of specialized commercial courts concurrently with the previously existing commercial divisions, whereby exclusive commercial disputes were transferred to these new bodies. The establishment of these courts came as a reaction to the variables witnessed by the commercial and economic sectors, given the increasing need to address new types of cases and disputes that require solutions of a specialized professional nature. This specialization is clearly highlighted through the composition of these courts and their territorial jurisdiction.

### **1- Composition of the Specialized Commercial Court**

The creation of these courts became necessary to deal with new forms of cases and disputes that require a specialized solution. These courts include, alongside judges specialized in commercial activity, judicial assistants with extensive experience in the world of finance and business. According to the Civil and Administrative Procedure Code, the specialized commercial court is established by dividing it into sections, the number of which is determined based on the nature

<sup>1</sup> - Law No. 22-07 on Judicial Division, *Official Gazette (J.O.R.A.)*, No. 32, 2022, issued on 14 May 2022

<sup>2</sup> - Organic Law No. 22-10 relating to Judicial Organization, *Official Gazette (J.O.R.A.)*, No. 41, 2022, issued on 16 June 2022.

<sup>3</sup> - Law No. 22-13 amending and supplementing the Code of Civil and Administrative Procedure, *Official Gazette (J.O.R.A.)*, No. 48, 2022, issued on 17 July 2022



and volume of judicial burdens,<sup>1</sup> under the supervision of a judge and with the assistance of 4 assistants characterized by comprehensive experience in commercial cases and enjoying distinct analytical ability. They have a deliberative opinion, so their role is not limited to consultation only. The court session proceeds correctly in the absence of one assistant, and if two or more assistants are absent, they are replaced by judges to perform the duties of the assistants,<sup>2</sup> which means that the number of judges in the section must be at least three, in addition to the presence of the Public Prosecution, represented by the Republic's Prosecutor before the court where the judicial sessions of the specialized commercial court are held, where this prosecution exercises its jurisdictions in accordance with the provisions of Articles 259 and 260 of the Civil and Administrative Procedure Code.

Pursuant to Executive Decree No. 23-52 regarding the conditions for appointing judicial assistants<sup>3</sup>, the conditions specified for appointing these assistants apply. Also, a committee supervised by the President of the Judicial Council located within the jurisdiction of the specialized commercial court's headquarters, or his representative, was tasked with preparing and updating the list of assistants. The assistants are committed to taking the oath before the Judicial Council located at the headquarters of the specialized commercial court that falls within their jurisdiction before starting their duties. The oath formula includes the following: **“I swear by Almighty God to perform my duties with the utmost degree of competence and honesty, and to maintain the confidentiality of deliberations, information, and documents that I encounter during the performance of my duties.”**<sup>4</sup>

As for the conditions for appointing judicial assistants, based on Executive Decree No. 23-52, particularly Articles 05 and 06 thereof, which included the conditions for appointing judicial assistants, represented in:

- Obtaining extensive knowledge in commercial cases.
- Algerian nationality.
- Enjoying civil and political rights and maintaining good conduct.
- No judgments issued against them for a crime or penal misdemeanor, except for unintentional crimes.
- Undergoing an administrative investigation procedure, based on a directive from the Public Prosecutor.

Commitment to completing the designated training before starting to perform their duties.

## **2- Territorial Jurisdiction of the Specialized Commercial Court**

Specialized commercial courts are judicial bodies vested with both subject-matter and extended territorial jurisdiction, established to adjudicate commercial disputes falling within their exclusive competence. These courts were officially inaugurated on 23 January 2023 at the headquarters of the judicial councils under the supervision of the respective presidents of the judicial councils. Their territorial jurisdiction was initially determined by Executive Decree No.

<sup>1</sup> - Law No. 22-13 amending and supplementing the Code of Civil and Administrative Procedure, *Official Gazette (J.O.R.A.)*, No. 48, 2022, issued on 17 July 2022

<sup>2</sup> - AICHA TOUISSAT and CHEIFA BADIAA, Legal system of commercial courts, *Academic Journal of Legal and Political Researchs*, Vol :09 No : 01, 2025, p13.

<sup>3</sup> - Executive Decree No. 23-52 determining the conditions and procedures for the selection of assistants to the Specialized Commercial Court, *Official Gazette (J.O.R.A.)*, No. 02, 2023. This decree aims to regulate the participation of experts in commercial disputes, by setting the criteria for their appointment, disciplinary measures, and procedures for the termination of their duties.

<sup>4</sup> - The oath formula and its procedures are provided for in Article 7 of Executive Decree No. 23-52.



23-53,<sup>1</sup> which established twelve (12) specialized commercial courts. Subsequently, Executive Decree No. 26-133,<sup>2</sup> amending and supplementing the aforementioned decree, expanded the network of these judicial bodies through the creation of thirteen (13) additional specialized commercial courts, bringing their total number to twenty-five (25) courts distributed across the national territory. The territorial jurisdictions of these courts were also reorganized to ensure a more balanced judicial distribution and to enhance access to justice for litigants., distributed as follows:

|                 |                                               |
|-----------------|-----------------------------------------------|
| 1- Adrar        | Adrar, Timimoun, Ain Salah                    |
| 2- Chlef        | Chlef , Ain Defla                             |
| 3- Batna        | Batna ,Biskra and Ouled Djellal               |
| 4- Béjaia       | Béjaia, Jijel                                 |
| 5- Béchar       | Béchar, , Tindouf, and Béni Abbès             |
| 6- Blida        | Blida, Tipaza, Médéa                          |
| 7 Tamanrasset   | Tamanrasset, Bordj Badji Mokhtar, Ain Guezzam |
| 8- Tébessa      | Tébessa ,Oum El Bouaghi, and Khenchela        |
| 9- Tlemcen      | Tlemcen and Aïn Témouchent                    |
| 10- Tiaret      | Tiaret and Tissemsilt                         |
| 11- Algiers     | Algiers                                       |
| 12- Djelfa      | Djelfa, Aghouat                               |
| 13- Sétif       | Sétif,M'sila and Bordj Bou Arreridj           |
| 14 – saïda      | Saïda, Mascara, Sidi bell abbes               |
| 15- Annaba      | Annaba, Taref                                 |
| 16- Guelma      | Guelma and Souk Ahras                         |
| 17- Constantine | Constantine, Skikda, Mila                     |
| 18 -Mostaganem  | Mostaganem, and Relizane                      |
| 19- Ouargla     | Ouargla, Touggourt                            |
| 20- Oran        | Oran                                          |
| 21- El bayadh   | El bayadh, Naama                              |
| 22- Illizi      | Illizi, Djanet                                |
| 23- Boumerdes   | Boumerdes, Tizi Ouzou and Boumerdes Bouira    |
| 24- El Oued     | El Oued, El M'ghair                           |
| 25- Ghardaia    | Ghardaia, El Menia                            |

### 3)Third Requirement: Substantive Jurisdiction of the Specialized Commercial Court

Substantive jurisdiction refers to the competence of a specific judicial authority, at its various levels, to hear a specific type of case. In other words, this type of jurisdiction

<sup>1</sup> - Executive Decree No. 23-53 of 14 January 2023 determining the territorial jurisdiction of Specialized Commercial Courts, *Official Gazette (J.O.R.A.)*, No. 02, 2023.

<sup>2</sup> - Executive Decree No. 26-133 amending and supplementing Executive Decree No. 23-53 determining the territorial jurisdiction of specialized commercial courts, *Official Gazette* No. 27, issued on 12 April 2026.



encompasses the distribution of lawsuits among different judicial authorities based on the nature of the case. In simple terms, it can be defined as the scope within which a specific judicial authority possesses the competence to hear specific cases according to their type. Accordingly, the jurisdictions of the specialized commercial court are determined exclusively, not illustratively, and consist primarily of the following:

### **3.1 Intellectual Property Disputes:**

Intellectual property rights are among the rights protected by law, where legal protection commences from the date of their registration with the two competent authorities: the National Office of Copyrights and Related Rights and the National Institute of Industrial Property. These rights are divided into two main categories: literary and artistic property rights, which include copyright and related rights, and industrial and commercial property rights, which include patents, trademarks, trade names, and appellations of origin. The legislator has provided special protection for these rights, comprising two aspects: civil protection and penal protection. The jurisdiction for penal protection is entrusted to the ordinary criminal judiciary, while civil protection falls within the jurisdiction of the specialized commercial court.<sup>1</sup>

### **3.2 Commercial Company Disputes:**

The commercial company represents the most significant economic institution playing a pivotal role in mobilizing and investing capital to establish massive projects that achieve prosperity and welfare. They are classified as commercial acts, whether by form or by object. Hence, the legislator assigned to them special provisions distinguishing them from other types of companies and commercial acts. In the event of disputes relating to the company, particularly disputes involving partners or those associated with the dissolution and liquidation of the company, specialized commercial courts have been designated as the judicial authority for adjudication.<sup>2</sup>

### **3.3 Judicial Settlement Disputes:**

Algerian legislation has adopted the system of bankruptcy and judicial settlement in commercial transactions, where the Commercial Code addressed this subject in Book Three, within Articles 215 to 238. This mechanism was dedicated to merchants and commercial companies, with the specialized commercial courts designated as the competent authority to hear and adjudicate these cases.<sup>3</sup>

### **3.4 Disputes of Banks and Financial Institutions with Merchants:**

The Algerian legislator determined the jurisdiction of specialized commercial courts to hear disputes arising between banks, financial institutions, and merchants, excluding other types of disputes. Banking and financial disputes are defined as disputes relating to banking and financial institutions and their clients, arising from banking operations regulated by relevant laws and legislation [28]. These disputes often bear a commercial character; as they are linked to bank activities such as depositing funds, interest rates, unpaid loans, and abusive clauses related to banking contracts.<sup>4</sup>

### **3.5 Disputes Related to International Trade:**

Disputes arising from international commercial contracts are often addressed based on the parties' freedom to choose recourse to commercial arbitration. This is due to arbitration's distinct speed in procedures and the high expertise of arbitrators specializing in this field. The Algerian

<sup>1</sup>- Hamza Ahmed and Bensalem Ahmed Abderrahman, *Opcit*, p 164.

<sup>2</sup>- Said, Laqleeb, and Noui, Mohamed. *Opcit*, p. 495.

<sup>3</sup>- AICHA TOUISSAT and CHEIFA BADIAA, *Opcit*, p 11

<sup>4</sup>- Ibid, p 08.



legislator has assigned the hearing of international trade contract disputes to the competent commercial court, which in turn provides the guarantee of specialization required by the parties to those contracts.<sup>1</sup>

### **Conclusion:**

It is clearly evident that the specialized commercial judiciary, which emerged and evolved in the French system, grants the commercial judiciary an autonomous character based on the field experience of merchants. Meanwhile, the specialized commercial court in the Algerian system has been integrated within the general judicial system to maintain judicial unity and ensure uniform application of the law. Both systems share the hearing of commercial disputes; however, the French system is more flexible, granting commercial courts broad powers including major companies, international bankruptcy, and cross-border e-commerce, while the Algerian jurisdiction remains limited to internal disputes of a commercial nature. Regarding procedures, France relies on simplicity and speed of adjudication, with the possibility of presenting a lawsuit orally in some cases, while procedures in Algeria are still restricted by legal formalities, which may affect the effectiveness of commercial justice. The French commercial judiciary is viewed as a tool for economic support and investment encouragement, due to the speed of resolving disputes and its ability to rescue distressed institutions.

In Algeria, despite legislative developments, the effectiveness of the commercial judiciary remains limited due to the lack of specialized training and delays in the digitalization of procedures. Nevertheless, the first steps toward establishing digital commercial courts are considered a positive indicator of keeping pace with economic transformations.

To develop the Algerian commercial judiciary, the following is proposed:

- Establishing commercial courts independent of the ordinary judiciary.
- Adopting judges specialized in commercial matters, while working on serious and in-depth training for judicial assistants on a periodic and continuous basis.
- Enhancing digitalization and electronic procedures to accelerate the adjudication of disputes.

Encouraging reconciliation and commercial arbitration as effective alternatives to the judiciary.

### **Writing conditions :**

\*The Simplified Arabic size Line 14 is used in the text. As for the addresses of the topics. the requerments, and the branches, they are written in the same font, the size of 16 thick.

\* Distance between lines 1 cm.

\*The margins are automatically placed at the end of the article there are written in Time New Roman 11, according to the following:

-Book: first and last name of author, title of book, volume (if any), translation (if any), edition, publishing house, place of publication, year of publication, page number.

-Article: first and last name of the author, title of the article, title of review, author, volume (if any), number, year, page.

<sup>1</sup> - Moukhe, Abdelkarim. "Disputes of International Commercial Contracts: Between the Jurisdiction of National Courts and Arbitral Jurisdiction." *Journal of Research in Contracts and Business Law*, Vol. 6, No. 4, 2021, p. 458.



-Memory: name and surname of author, title of thesis or dissertation, type of dissertation (Ph.D., MA), faculty and university, year, page.

-Electronic references: first and last name of the author, name of the organization, title of the article, date of publication, full email address, browsing history: day, month, year.

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