Towards a Judicial Model of Constitutional Review in Algeria: An Analytical Reading of the 2016–2020 Transformations

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Abstract :

This study aims to analyze the evolution of constitutional review in Algeria in light of the constitutional amendments of 2016 and 2020, with a focus on the transition from a predominantly political model to an increasingly judicial model, through examining the transformations affecting the Constitutional Council and the Constitutional Court.

The study relies on a descriptive, analytical, and comparative approach to understand the nature and effects of these reforms. The 2016 amendment introduced important reforms, including the reorganization of the composition of the Constitutional Council, the strengthening of membership requirements, and the expansion of referral mechanisms, particularly through the question of unconstitutionality. The 2020 amendment represented a qualitative shift through the establishment of the Constitutional Court, the expansion of its jurisdiction, and the strengthening of procedural guarantees.

The study concludes that these reforms have contributed to strengthening constitutional supremacy and consolidating the rule of law, while their effectiveness remains dependent on actual implementation and the strengthening of institutional independence.

Keywords:

Constitutional review, Constitutional Council, Constitutional Court, constitutional amendments (2016–2020), judicial model.

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نحو نموذج قضائي للرقابة الدستورية في الجزائر: قراءة في تحولات 2016–2020

الملخص:

تهدف هذه الدراسة إلى تحليل تطور الرقابة على دستورية القوانين في الجزائر في ضوء التعديلات الدستورية لسنتي 2016 و2020، مع التركيز على الانتقال من نموذج ذي طابع سياسي إلى نموذج ذي طابع قضائي متزايد، من خلال دراسة التحولات التي مست المجلس الدستوري والمحكمة الدستورية.

تعتمد الدراسة على المنهج الوصفي والتحليلي والمقارن لفهم طبيعة هذه الإصلاحات وآثارها. وقد أسفر تعديل 2016 عن إدخال إصلاحات مهمة، شملت إعادة تنظيم تركيبة المجلس الدستوري، وتعزيز شروط العضوية، وتوسيع آليات الإخطار، خاصة عبر الدفع بعدم الدستورية. أما تعديل 2020 فقد مثّل تحولًا نوعيًا من خلال إنشاء المحكمة الدستورية، وتوسيع اختصاصاتها، وتعزيز الضمانات الإجرائية.

وتخلص الدراسة إلى أن هذه الإصلاحات ساهمت في تعزيز سمو الدستور وترسيخ دولة القانون، مع بقاء فعاليتها رهينة بالتطبيق الفعلي وتعزيز استقلالية المؤسسة الدستورية.

الكلمات المفتاحية:

الرقابة الدستورية، المجلس الدستوري، المحكمة الدستورية، التعديلات الدستورية (2016–2020)، النموذج القضائي.

Vers un modèle juridictionnel du contrôle de constitutionnalité en Algérie : une lecture analytique des transformations 2016–2020

Résumé:

Cette étude analyse l'évolution du contrôle de constitutionnalité en Algérie à la lumière des réformes constitutionnelles de 2016 et 2020, en mettant l'accent sur la transition vers un modèle à caractère juridictionnel. Elle examine les transformations affectant le Conseil constitutionnel et la Cour constitutionnelle.

L'étude repose sur une approche descriptive, analytique et comparative afin d'évaluer la portée de ces réformes. La révision de 2016 a introduit des avancées importantes, notamment la réorganisation de la composition, le renforcement des conditions de nomination et l'élargissement des mécanismes de saisine, en

particulier l'exception d'inconstitutionnalité. La réforme de 2020 a consacré une évolution majeure avec la création de la Cour constitutionnelle, l'extension de ses compétences et le renforcement des garanties procédurales.

Elle conclut que ces réformes ont contribué à consolider la suprématie constitutionnelle et l'État de droit, tout en soulignant que leur efficacité dépend de leur mise en œuvre effective et de l'indépendance institutionnelle.

Mots clés:

Contrôle de constitutionnalité, Conseil constitutionnel, Cour constitutionnelle, réformes constitutionnelles (2016–2020), modèle juridictionnel.

Introduction

Constitutional review constitutes a core mechanism within contemporary constitutional systems for ensuring the supremacy of the Constitution and safeguarding fundamental rights and freedoms. Its effectiveness lies in its capacity to guarantee the conformity of legislative and regulatory norms with constitutional provisions, thereby reinforcing the principle of the rule of law and limiting potential abuses of public power.

In this context, constitutional systems have developed different models of constitutional review, ranging from predominantly political institutions to fully judicial bodies entrusted with constitutional adjudication. These models reflect varying approaches to the organization of constitutional justice and to the balance between constitutional supremacy and institutional design.

For the purposes of this study, a political model of constitutional review refers to a system in which constitutional oversight remains predominantly exercised by political authorities through restricted referral mechanisms and limited judicial involvement.

By contrast, a judicial model is characterized by stronger judicial participation, broader access to constitutional review, and procedural guarantees associated with constitutional adjudication.

This conceptual distinction provides the analytical framework through which the evolution of constitutional review in Algeria between 2016 and 2020 is assessed.

The Algerian constitutional experience illustrates a gradual and evolving trajectory in this regard. Since independence, constitutional review has undergone several stages of development, oscillating between periods of institutional absence and phases of re-establishment and reform. The 1989 Constitution[1] marked the reintroduction of the Constitutional Council, followed by subsequent reforms aimed at strengthening its role, particularly under the 1996 Constitution[2].

However, despite these developments, the system remained largely constrained by its political character and limited access mechanisms.

The constitutional amendment of 2016[3] marked a significant turning point by expanding referral mechanisms and, most notably, introducing the exception of unconstitutionality, thereby opening the way for judicial involvement in constitutional review. This shift reflected the emergence of a hybrid model combining political and judicial features.

The reform was further consolidated by the 2020 constitutional amendment,[4] which replaced the Constitutional Council with a Constitutional Court endowed with broader jurisdiction and enhanced procedural guarantees, indicating a clearer transition toward a more judicial model of constitutional review[5].

Against this background, this study seeks to answer the following research question: to what extent have the constitutional amendments of 2016 and 2020 contributed to transforming constitutional review in Algeria from a predominantly political mechanism into a judicial model?

To address this question, the study adopts an analytical and comparative legal approach, focusing on the structural and functional transformations introduced by the two constitutional amendments. It examines, first, the reforms

[1] Constitution of the People's Democratic Republic of Algeria of 23 February 1989, Official Gazette of the People's Democratic Republic of Algeria, No. 09, 1 March 1989.
[2] Presidential Decree No. 96-438 of 7 December 1996, relating to the promulgation of the constitutional amendment adopted by referendum of 28 November 1996, Official Gazette of the People's Democratic Republic of Algeria, No. 76, 8 December 1996.
[3] Constitutional Law No. 16-01 of 6 March 2016 on the constitutional amendment, Official Gazette of the People's Democratic Republic of Algeria, No. 14, 7 March 2016.
[4] Presidential Decree No. 20-442 of 30 December 2020, relating to the promulgation of the constitutional amendment adopted by referendum of 1 November 2020, Official Gazette No. 82, 30 December 2020.
[5] Aicha Douidi, 'The Constitutional Court in Algeria', *Journal of Constitutional Law and Political Institutions* (2025) 8(1) 2.

affecting the Constitutional Council under the 2016 amendment, and second, the emergence and functioning of the Constitutional Court under the 2020 amendment.

Accordingly, the study is structured into two main parts: the first analyzes the institutional and functional reforms of the Constitutional Council introduced in 2016, while the second examines the constitutional review system under the 2020 amendment, with particular emphasis on the establishment of the Constitutional Court as a manifestation of judicialization.

Chapter I: Reforms Affecting the Constitutional Council under the 2016 Constitutional Amendment

Although constitutional review has been formally recognized in Algeria since the early constitutional experience, its practical development has remained constrained by a set of structural and institutional limitations.[6] These limitations concerned, in particular, the composition of the Constitutional Council, the restrictive criteria governing membership, and the narrowly defined scope of referral. As a result, constitutional review operated for a long period within a framework characterized by limited judicial autonomy and a predominant institutional dependence on political authorities.

Against this background, the 2016 constitutional amendment introduced a series of reforms intended to restructure the institutional framework of constitutional review. These reforms should not be understood as merely technical adjustments; rather, they reflect a gradual reconfiguration of the constitutional review system aimed at strengthening its institutional effectiveness and enhancing its normative authority within the Algerian constitutional order.

From an analytical perspective, the 2016 reform may be understood through three interrelated dimensions: the institutional composition of the Constitutional Council, the legal framework governing its membership, and the expansion of referral mechanisms. Taken together, these dimensions indicate a gradual shift toward reinforcing the functional capacity of constitutional review and reducing its purely political character.

[6] Constitutional review has been recognized in all Algerian constitutions, except for the 1976 Constitution.

Accordingly, the following analysis examines, first, the composition of the Constitutional Council, second, the conditions of membership, and third, the expansion of referral mechanisms.

Section I: Reforms Concerning the Composition of the Constitutional Council

These reforms primarily relate to both the composition of the Constitutional Council and the conditions governing its membership.

Subsection 1: Composition of the Constitutional Council

Reflecting the principle of separation of powers, the 2016 constitutional amendment redefined the composition of the Constitutional Council by increasing its membership from nine to twelve members[7].

This institutional configuration was later fundamentally restructured under the 2020 Constitution with the establishment of the Constitutional Court, marking a shift from a council-based model to a fully judicialized system of constitutional adjudication.

This restructuring established an equal representation of the legislative, executive, and judicial branches, each allocated four members, thereby aiming to promote a more balanced institutional configuration within the framework of constitutional review.

From a constitutional perspective, this rebalancing was intended to reduce the predominance of the executive authority and to enhance institutional pluralism within the review mechanism. However, the extent to which this formal equality ensures substantive independence remains open to critical assessment, particularly in light of the continued influence of political institutions over appointment processes[8].

In this context, the reform sought to reinforce institutional balance by preventing the concentration of constitutional authority within a single branch and by promoting a more equitable distribution of power among state institutions. The increased presence of the judiciary within the Council acquires particular significance in relation to the expansion of referral mechanisms, including the introduction of the exception of unconstitutionality, which requires

[7] Algerian Constitutional Amendment of 2016, art. 183.
[8] Abdelkader Cherbal and Reda Kharroub, "Reform of the Constitutional Council under the 2016 Constitutional Amendment," *Sawt al-Qanoun Journal*, no. 7, pt. 1 (2017): 288.

a stronger judicial component within constitutional adjudication. Additionally, the establishment of the position of Vice-President contributes to institutional continuity and ensures the operational stability of the Council in situations of vacancy or institutional transition.

Subsection 2: Conditions of Membership

A review of constitutional provisions and the legal framework governing the Constitutional Council prior to the 2016 reform reveals the absence of clearly defined criteria for the appointment or election of its members, with the exception of limited provisions contained in Article 164 of the 1996 Constitution[9].

In order to enhance the effectiveness of constitutional review and address the shortcomings resulting from the lack of precise eligibility criteria, the constituent authority introduced, through the 2016 amendment, a set of conditions and standards governing membership. These reforms align the Algerian system with comparative constitutional developments while promoting greater flexibility and professionalism within the Constitutional Council[10].

In this regard, Article 184 stipulates that members of the Constitutional Council, whether appointed or elected, must meet specific requirements, including being at least forty years of age at the time of appointment or election, and possessing a minimum of fifteen years of professional experience in fields such as higher education in legal sciences, the judiciary, the legal profession before the Supreme Court or the Council of State, or in a senior position within the state[11].

These requirements reflect a clear intention to improve the quality and credibility of the Council's composition by selecting individuals with substantial legal expertise and professional experience, thereby moving away from arbitrary or politically motivated appointments. Such criteria are essential to ensuring the proper functioning of constitutional review, which requires both legal competence and institutional maturity.

[9] Abdelkader Cherbal, "The Position of the Constitutional Council within the National Institutional System," *Parliamentary Thought Journal*, no. 2 (2006): 87.
[10] Cherbal and Kharroub, "Reform of the Constitutional Council," 289.
[11] Algerian Constitutional Amendment of 2016, art. 184.

Furthermore, in order to preserve the independence and impartiality of Council members,[12] the 2016 constitutional amendment explicitly prohibits the combination of membership in the Constitutional Council with any other public office, function, assignment, or professional activity. This principle, enshrined in Article 183(2), aims to safeguard the neutrality of the institution and reinforce its autonomy.

Section II: Reforms Related to the Characteristics of Membership

The 2016 constitutional amendment introduced a series of reforms concerning the characteristics of membership within the Constitutional Council. These reforms primarily relate to the term of office, the oath-taking requirement, and the granting of legal immunity.

Subsection 1: Term of Office

Under Article 164 of the 1996 Constitution, the President of the Constitutional Council served a single non-renewable term of six years, while the remaining members also held office for a single six-year term, with half of the membership renewed every three years[13]. However, this relatively short duration limited the Council's ability to fully benefit from the expertise of its members, even when they possessed significant legal experience[14].

By comparison, members of the French Constitutional Council serve longer non-renewable terms of nine years, a period generally considered more conducive to institutional stability and independence[15].

In response, the 2016 constitutional amendment extended the term of office of Constitutional Council members to eight years, [16] while maintaining the principle of a single, non-renewable mandate.

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[12] Ibrahim Belmahdi, *Constitutional Councils in the Maghreb Countries* (Master's thesis, Faculty of Law, University of Algiers, 2009), 43.
[13] Mouloud Didane, *Studies in Constitutional Law and Political Systems in Light of the 2016 Constitutional Amendment* (Algiers: Dar Belqis, 2016), 106.
[14] Said Boualshair, *Constitutional Law and Comparative Political Systems*, vol. 1 (Algiers: National Office of University Publications, 11th ed., 2010), 20.
[15] Articles 2 and 12, Ordinance No. 58-1067 of November 7, 1958 (as amended), Organic Law on the French Constitutional Council, consolidated version of August 10, 2017, http://www.legifrance.gouv.fr (accessed March 6, 2026).
[16] Algerian Constitutional Amendment of 2016, art. 183, paras. 3–4.

The President of the Council continues to be appointed by the President of the Republic for the same duration. The reform also established the position of Vice-President, appointed under identical conditions.

Furthermore, members are partially renewed every four years through a system of rotation. This arrangement ensures institutional continuity while allowing for the gradual integration of new members[17].

The 2016 constitutional amendment laid the groundwork for the institutional restructuring introduced by the 2020 constitutional reform, which further strengthened the judicial model of constitutional review.

Subsection 2: Oath-Taking

Prior to the 2016 amendment, neither the Algerian constitutions nor the legal framework governing the Constitutional Council explicitly required its members to take an oath before assuming their duties[18].

In response to growing calls for reinforcing integrity and accountability within this sensitive institution, the constituent authority introduced a formal oath-taking requirement. According to Article 183 (final paragraph) of the 2016 amendment, members of the Constitutional Council are required to take an oath before the President of the Republic prior to assuming their functions. This requirement strengthens ethical standards, ensures impartiality, and upholds the principles of the rule of law[19].

Subsection 3: Legal Immunity

The 2016 constitutional amendment also sought to reinforce the independence of the Constitutional Council by granting its members judicial immunity in criminal matters during their term of office. Article 185 provides that neither the President, the Vice-President, nor the members of the Council may be subject to prosecution or arrest for a felony or misdemeanor unless they expressly waive their immunity or authorization is granted by the Constitutional Council.

The internal regulations of the Council further define the procedures governing the lifting of such immunity, which may only occur through an

[17] Hanaa Ararour and Abdelwahab Kharif, "Membership in the Algerian Constitutional Council under the 2016 Constitutional Amendment," *Afaq Journal*, no. 11 (March 2018): 284.
[18] Ibid., 286.
[19] Algerian Constitutional Amendment of 2016, art. 183, para. 5.

explicit waiver by the concerned member or with the Council's approval. This mechanism is intended to protect members from undue external pressure, thereby ensuring the autonomy and impartial functioning of the institution[20].

Section III: Expansion of Referral Mechanisms to the Constitutional Council

According to Article 166 of the 1996 Constitution, the authority to initiate constitutional review proceedings was limited to three institutional actors: the President of the Republic, the President of the National People's Assembly, and the President of the Council of the Nation. This power extended to organic laws, the internal regulations of both parliamentary chambers, as well as treaties, legislation, and regulatory acts[21].

However, the concentration of referral authority in the hands of these three actors raised significant concerns regarding the effectiveness of constitutional review, particularly in relation to the protection of individual and collective rights and freedoms. In the absence of broader access mechanisms, constitutional oversight remained restricted, thereby limiting its practical impact[22].

In response to these concerns, the 2016 constitutional amendment expanded the range of entities entitled to refer matters to the Constitutional Council.

These prerogatives were subsequently expanded and redefined under the 2020 constitutional reform, which enhanced the jurisdiction of the Constitutional Court and reinforced its role in constitutional oversight.

This expansion included the Prime Minister, as well as a specified number of members from both chambers of Parliament[23]. It also provided the

[20] Internal Regulations of the Algerian Constitutional Council, *Official Gazette*, no. 29, May 11, 2016.
[21] Khaled Dhina, "Methods of the Constitutional Council in Constitutional Review," *Parliamentary Thought Journal*, no. 14 (November 2006): 44.
[22] Cherbal and Kharroub, "Reform of the Constitutional Council," 293.
[23] Algerian Constitutional Amendment of 2016, art. 187.

parliamentary opposition with an opportunity to challenge potentially unconstitutional provisions.

The 2016 amendment expanded access to constitutional review by extending referral powers to parliamentary actors, thereby altering the institutional balance of constitutional review[24].

Moreover, this reform introduces a major innovation by allowing individuals to challenge the constitutionality of legal provisions affecting their rights and freedoms through judicial referral before either the Supreme Court or the Council of State. This mechanism, commonly known as the exception of unconstitutionality, marks a significant turning point in the Algerian system of constitutional review[25].

To operationalize this mechanism, Organic Law No. 18-16[26] was enacted, setting out the conditions, procedures, and stages governing the invocation of unconstitutionality before the courts.

As a result, the Algerian legal system introduced a new avenue for constitutional review through the participation of individuals in judicial proceedings, thereby enhancing the protection of constitutionally guaranteed rights and freedoms[27].

The 2016 constitutional amendment introduced a major reform in the field of constitutional review. The mechanism operates as an indirect constitutional challenge, subject to two cumulative conditions: the existence of a pending dispute before ordinary or administrative courts, and the alleged infringement of constitutionally protected rights and freedoms by the contested legal provision[28].

While these reforms represent substantial progress in strengthening constitutional oversight, they did not mark the end of constitutional transformation in Algeria. Rather, they laid the foundation for further developments aimed at consolidating the rule of law and democratic

[24] Cherbal and Kharroub, op.cit., p 293.
[25] Algerian Constitutional Amendment of 2016, art. 188.
[26] Organic Law No. 18-16, September 2, 2018, on the Exception of Unconstitutionality, *Official Gazette*, no. 54, September 5, 2018.
[27] Abdelrazak Bahri, "The Principle of Separation of Powers as a Legal Guarantee for Constitutional Review," *Journal of Legal Studies*, vol. 6, no. 1 (January 2021): 165.
[28] Ammar Koussa, "Referral Mechanisms of the Constitutional Council in Algeria," *Journal of Law and Political Science*, no. 9 (January 2018): 436–37; see also Mohamed Lamine El Amrani, "The Exception of Unconstitutionality in Algerian Law," *Scientific Horizons Journal*, vol. 12, no. 2 (2020): 603.

governance, which were subsequently embodied in the 2020 constitutional amendment.

Chapter II: Constitutional Review under the 2020 Constitutional Amendment: The Emergence of the Constitutional Court

The constitutional reform of 2020 introduced a series of significant changes affecting the system of constitutional review in Algeria, most notably through its reassignment to a newly established Constitutional Court. The provisions governing this institution were set out in the fourth chapter of the constitutional amendment, entitled *"Institutions of Oversight,"* with particular emphasis on its first section, which is specifically dedicated to the Constitutional Court.

This institutional transformation cannot be understood in isolation from the 2016 constitutional amendment, which initiated a gradual shift toward a more judicialized model of constitutional review.

The foundations of this transformation stem from the 2016 constitutional amendment, which introduced for the first time the right of individuals to challenge the constitutionality of legislative provisions through the mechanism of the exception of unconstitutionality. This mechanism effectively established a dual nature of constitutional review, combining both a priori (abstract) and a posteriori (concrete) dimensions within the framework of the Constitutional Council.

The coexistence of these two forms of review played a decisive role in transforming the Constitutional Council into a Constitutional Court. This shift goes beyond a simple change in terminology, as it reflects a deeper structural transformation requiring a thorough reconfiguration of the institution. This transformation involved not only institutional redesign, but also substantive changes in jurisdiction, composition, and procedural guarantees, distinguishing the Constitutional Court from the former Constitutional Council beyond a merely formal institutional reclassification.

This entails revisiting its composition (Section I**)**, expanding and redefining its powers (Section II), and adopting new procedural rules designed to ensure adversarial proceedings and strengthen the fairness of constitutional adjudication **(**Section III**).**

Section I: Composition of the Constitutional Court

The Constitutional Court consists of twelve members, reflecting a diversified and balanced institutional structure. Four members are appointed by the President of the Republic, including the President of the Court. In addition, one member is elected by the Supreme Court from among its members, and another by the Council of State from among its members. The remaining six members are elected through a general electoral process from among professors of constitutional law.

This composition reflects an institutional orientation toward strengthening the judicial character of constitutional review through greater representation of legal expertise and judicial bodies.

Membership in the Constitutional Court is subject to strict eligibility criteria. Members, whether appointed or elected, must be at least fifty years of age at the time of their appointment or election, possess a minimum of twenty years of experience in constitutional law, enjoy full civil and political rights, and have no criminal record. Furthermore, members are required to maintain political neutrality, as they must not be affiliated with any political party. They are also prohibited from holding any other public office, function, assignment, or engaging in any professional or private activity, thereby safeguarding their independence and impartiality.

The President of the Constitutional Court is appointed by the President of the Republic and must meet the constitutionally prescribed conditions, with the exception of the age requirement.

Members of the Constitutional Court serve a single term of six years, with half of the membership renewed every three years. This system ensures both institutional continuity and periodic renewal, contributing to the stability and effectiveness of the Court[29].

Section II: Expansion of the Powers of the Constitutional Court

Under the 2020 constitutional amendment, the powers of the Constitutional Court were significantly expanded, reflecting a clear shift toward strengthening its role within the constitutional framework. In particular, the Court's jurisdiction was extended to include the review of the conformity of laws with international agreements, thereby reinforcing the hierarchy of norms and

[29] Algerian Constitutional Amendment of 2020, arts. 186–188.

ensuring consistency between domestic legislation and Algeria's international commitments[30].

Furthermore, the Constitutional Court was granted the authority to review the constitutionality of ordinances issued by the President of the Republic,[31] a development that enhances oversight over executive action and limits the possibility of unilateral legislative intervention by the executive branch.

In addition, the President of the Republic is now required to submit decisions adopted in the context of exceptional circumstances to the Constitutional Court for its opinion. This requirement introduces an additional layer of constitutional control over the exercise of extraordinary powers, thereby contributing to the safeguarding of constitutional order and preventing potential abuses[32].

Section III: New Procedural Rules Governing the Constitutional Court

The 2016 amendment laid the groundwork for the institutional restructuring introduced by the 2020 constitutional reform, which further strengthened the judicial model of constitutional review.

The 2020 constitutional amendment introduced a set of new procedural rules governing the functioning of the Constitutional Court, significantly enhancing access to constitutional review and reinforcing its institutional role.

he Court may be seized by several authorities, including the President of the Republic, the President of the Council of the Nation, the President of the National People's Assembly, as well as the Prime Minister or the Head of Government, depending on the circumstances[33].

In addition, a specified number of parliamentarians -namely forty members of the National People's Assembly or twenty-five members of the Council of the Nation- may refer matters to the Constitutional Court, particularly in cases involving disputes between constitutional authorities. These entities are also empowered to request the interpretation of one or more constitutional provisions, upon which the Court delivers an advisory opinion.

[30] Ibid., art. 186, para. 4.
[31] Ibid., art. 186, para. 1.
[32] Ibid., art. 107, para. 5.
[33] Ibid., arts. 192–193.

The constituent authority has further broadened the scope of referral by empowering the Constitutional Court to review the constitutionality of treaties prior to their ratification and laws before their promulgation. Moreover, the Court may be referred to for the review of the constitutionality of ordinances and regulatory acts within one month of their publication[34].

Notably, the President of the Republic is under a constitutional obligation to refer organic laws to the Constitutional Court following their adoption by Parliament, in order to verify their conformity with the Constitution. The Court then issues a binding decision concerning the entirety of the legal text[35]. The procedures and modalities governing referrals to the Court are further defined by an organic law[36].

As for the Court's decisions, they are adopted by majority vote. In the event of a tie, the President of the Court holds the casting vote. However, when the Court exercises review over organic laws, an absolute majority is required, thereby reflecting the particular importance of such legislation within the constitutional hierarchy[37].

Conclusion

The constitutional reforms introduced in Algeria, particularly those of 2016 and 2020, have reshaped the system of constitutional review. They have strengthened its independence and expanded its scope, while reducing the predominance of the executive branch and reinforcing constitutional supremacy.

This transformation is reflected in several key developments, including the reconfiguration of the body responsible for constitutional review, the extension of constitutional control to presidential ordinances, and the obligation imposed on the President of the Republic to refer organic laws to the Constitutional Court. It is also evident in the requirement to seek the Court's opinion in cases involving exceptional powers.

Moreover, the institutional changes introduced under the 2020 constitutional reform reflect an effort to reinforce the independence of the Constitutional Court and consolidate its role within the constitutional order. This confirms the constituent authority's intention to promote a gradual transition

[34] Ibid., art. 190, para. 3.
[35] Ibid., art. 190, para. 5.
[36] Ibid., art. 196.
[37] Ibid., art. 197.

toward a more judicial model of constitutional review based on the balance of powers and the effective protection of rights and freedoms.

The transition from the 2016 to the 2020 constitutional framework reflects a progressive evolution from an expanded Constitutional Council model toward a fully judicialized Constitutional Court system.

While the 2016 reform introduced procedural and institutional openings toward judicialization, the 2020 reform completed this transformation through the establishment of a constitutionally empowered adjudicative body.

Despite the importance of these reforms, their full impact remains dependent on their effective implementation in practice. In this respect, several recommendations may be put forward:

- Strengthen the effective judicialization of constitutional review in Algeria by ensuring that the Constitutional Court operates in practice as a genuine adjudicatory body rather than a predominantly institutional or consultative mechanism.
- Improve the practical functioning of the exception of unconstitutionality by simplifying procedural requirements and reducing delays in referral between ordinary courts, the Supreme Court, and the Constitutional Court.
- Enhance the procedural autonomy of the Constitutional Court by consolidating adversarial principles, ensuring equality of arms between parties, and reinforcing reasoned constitutional decisions.
- Promote greater transparency in the appointment process of Constitutional Court members in order to reinforce perceptions of independence and reduce institutional dependency on political authorities.
- Encourage the development of a coherent constitutional jurisprudence that consolidates legal certainty and strengthens the protection of fundamental rights and freedoms.
- Ensure the effective implementation of the 2020 constitutional innovations, particularly those related to expanded jurisdiction (treaties, ordinances, and exceptional powers), in order to avoid a purely formal judicialization of constitutional review.