

The jurisdiction of the constitutional court according to the Algerian constitutional amendment of 2020

اختصاصات المحكمة الدستورية وفق التعديل الدستوري الجزائري 2020

Hachouf loubna *

Abbes Laghrour University; Khenchela

E-mail: loubna.hachouf@univ-khenchela.dz

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Abstract:

This paper handles the question of the jurisdiction of the constitutional court according to the Algerian constitutional amendment of 2020 and the organic law 22-19 on the procedures and methods of notification and referral adopted by the constitutional court, through which the constitutional founder adopted the judicial control over the constitutionality of the laws. This control takes place through an independent court that controls the constitutionality of the laws, regulates the activity of the institutions and the public authorities, and has new jurisdictions that had not been exercised by the constitutional council under the previous constitutions, such as settling disputes between the constitutional institutions, interpreting the constitutions, requesting the view of the constitutional court in case of the inability of organizing the legislative and presidential elections in due time, and giving opinion about the decisions of the president in the exceptional states.

Keywords: constitutional control, constitutional court, organic laws, conventions, orders, organizations, exception of constitutionality, constitution interpretation, dispute settlement, legislative elections, referendum.

الملخص:

تعالج هذه الدراسة موضوع اختصاصات المحكمة الدستورية وفق التعديل الدستوري لسنة 2020 والقانون العضوي 22_19 الذي يحدد اجراءات وكيفية الاخطار والاحالة المتبعة أمام المحكمة الدستورية، التي تبنى من خلالها المؤسس الدستوري الرقابة القضائية على دستورية القوانين من خلال محكمة مستقلة تتولى مهمة الرقابة على دستورية القوانين وضبط سير المؤسسات ونشاط السلطات العمومية، اضافة الى اختصاصات جديدة لم يمارسها المجلس الدستوري في ظل الدساتير السابقة مثل حل الخلافات بين المؤسسات الدستورية، وتفسير الدستور ، اضافة الى اختصاصات أخرى خاصة مثل طلب رأي المحكمة الدستورية في حالة استحالة اجراء الانتخابات الرئاسية والتشريعية في اجالها المحددة، وابداء رأيها فيما يخص القرارات التي يتخذها رئيس الجمهورية خلال الحالة الاستثنائية. الكلمات المفتاحية: الرقابة الدستورية، المحكمة الدستورية، القوانين العضوية، معاهدات، أوامر، تنظيمات، الدفع بعدم الدستورية، تفسير الدستور ، حل الخلافات، الانتخابات التشريعية، الاستفتاء.

* Hachouf loubna

Introduction:

The respect of the constitution and its provisions by the laws to protect the individual freedoms and rights is the ultimate goal of the democratic regimes in building the law state and enshrining the constitutional supremacy. Therefore, it was necessary to set mechanisms and bodies that guarantee its supremacy over all the legal rules in the state, which apply the principle of the control on the constitutionality of the laws. In this regard, the successive Algerian constitutions gradually developed this control. They provided for chagrining an ad hoc constitutional committee with the control.

In this context, the constitution of 1963 provided for the constitutional council. Then, the constitution of 1976 did not provide for the constitutional control. Later, the constitution of 1989 provided for the establishment of a constitutional council, which was amended by the constitution of 1996. In 2020, Article 185 of the constitutional amendment has established the constitutional court as an independent institution in charge of guaranteeing the respect of the constitution. This marks a clear trend towards the adoption of the judicial control and the rejection of the constitutional council as a political mechanism to control the constitutionality of the laws.

Based on what was said, this study focuses on the main jurisdictions of the constitutional court in the light of the constitutional amendment of 2020. Besides, it sheds light on the main new reforms to guarantee the constitutional supremacy. Thus, we raise the following problematic, “what are the jurisdictions of the constitutional court according to the constitutional amendment of 2020”.

To answer the question, we used the analysis since it is one of the scientific research tools. In so doing, we analyzed some laws to cover the topic and get the details of the constitutional court. Besides, we relied on the descriptive method in some parts of the work. The study was divided into two chapters. The 1st revolves around the jurisdiction of the constitutional court in the control while the 2nd is about the other jurisdictions of the constitutional court.

1. the jurisdiction of the constitutional court in the control:

The constitutional founder charged the constitutional court with controlling the constitutionality of the laws and the authorities' commitment to the constitution in enacting laws.

1.1- The constitutional control

The control on the constitutionality aims at protecting the legal system of the state through the protection of the constitutional provisions from the constitutional and political deviations. Therefore, the constitutional court monitors the correspondence of the laws to the constitution. The constitutional control is one of the important jurisdictions of the constitutional court by the constitutional amendment of 2020. The control may be posterior or prior, optional or mandatory, or through referral and notification by specific parties.

1.2- The control of correspondence to the organic laws:

These laws were enacted by the constitution of 1996. They are between the ordinary law and the constitution, as they are in the lowest constitutional degree and in the highest degree of the ordinary law. Due to their importance, the constitution identified their fields and subjected them to specific measures that differ than those used with the ordinary laws; either



regarding the required votes⁽¹⁾, or their submission to the control on the compulsory correspondence to the constitution by the constitutional court. Article 140 of the constitution identified the fields of the legislation with organic laws. In addition, it provided for the subjection of the organic law, before issuance, to the control of correspondence to the constitution by the constitutional court.

Moreover, Article 190 of the constitutional amendment of 2020 provides for the compulsory notification of the constitutional court by the president about the correspondence of the organic laws to the constitution, after their ratification by the parliament. Thus, the constitutional court issues a decision about the law. This means that the constitutional founder provided for the necessity of notifying the constitutional court about the organic laws within a specific deadline that starts from the ratification of the law by the parliament. Hence, the organic law is not issued without being submitted to the constitutional court, which rules by a decision. Consequently, the control over the organic laws is *priori* and compulsory.

If the answer of the constitutional court is positive, the other procedures are taken. However, if it finds that one of the texts of the law does not respect the constitution, two possibilities arise. The 1st is when the text does not correspond to the constitution and is strongly linked to the other texts of the law, some amendments are required by the National Public Assembly before its presentation again in the court. The 2nd is when the text is not tightly linked to the other articles; thus, the president issues the law with exception of the text⁽²⁾.

1.3- The *posteriori* control over the rules of procedure of the parliament:

In the last paragraph of Article 135, the constitutional founder granted the National Popular Assembly and the House of Commons the right to issue and ratify their own rules of procedure. Nevertheless, they must undergo the correspondence control, as provided for by the last paragraph of Article 190. Thus, the constitutional court either accepts the text when it corresponds to the constitution, and vice versa unless it is amended and presented again to the constitutional court⁽³⁾.

2. The control over the constitutionality of the conventions, laws, orders, and organizations:

The constitutional court considers the constitutionality of the conventions, laws, orders, and organizations. The following lines explain more.

2.1- The control over the constitutionality of the conventions:

Article 190 of the constitutional amendment of 2020 provided for the possibility of notifying the constitutional court about the constitutionality of the conventions before their ratification. Hence, the control over the constitutionality of the convention is permissible before ratification. Besides, no constitutional control can be triggered after its ratification; i.e., no posterior control on the conventions. As for the truces and peace conventions, the president asks for the view of the constitutional court directly after ratification. Then, they are presented to the parliament to give its view. The view of the constitutional court is mandatory before presentation to the parliament.

¹ Rachida al Am, the Algerian constitutional council, al Fadjr house for publication and distribution, 2006, Vol. 01, p. 146.

² See Article 07 of the system of the constitutional court work, official gazette of 22 January 2023, No° 04.

³ Ibid, Article 08.



The subjection of the truce and peace conventions to the priori control should not necessarily result in the rejection if the convention breaks the constitution, unlike the posterior, which means the state abandons its international commitments and must refuse the convention. Furthermore, the court can examine the correspondence of the laws and regulations with the conventions, because the conventions signed by the president are higher than the ordinary law; this was not provided for by the previous constitutions.

2.2- The control over the constitutionality of the ordinary laws:

Unlike the organic laws that are subject to the correspondence control, it is compulsory and must be presented to the constitutional court, through notification by the president before issuance and publication in the official gazette. However, the Algerian constitutional founder relied on Article 139 in determining 30 fields of the ordinary laws. The constitutional court can be notified about them before issuance by the president of the republic, the head of the house of commons, the head of the National Popular Assembly, the prime minister, or the head of government, according to the state. Besides, the court can be notified by 40 MPs or 25 members of the house of commons. This means the fields are subject to the prior constitutional control before coming into force according to Article 193 of the constitution. Nevertheless, if the law is issued, the constitutional court cannot be notified unless through the exception of constitutionality.

The control on the constitutionality of the law hinders the violation of the constitutional provisions because the constitution is the supreme law. Thus, it is not possible to issue laws that violate the constitution. In this regard, the president of the republic issues the law in a deadline of 30 days starting from the reception of the white paper⁽¹⁾. However, if one of the authorities mentioned in Article 193 notifies the constitutional court before the issuance of the law, the deadline is suspended until the constitutional court settles the case according to Article 148 of the constitution.

2.3-The constitutional control on the orders and regulations:

The constitutional amendment of 2020 provided for subjecting the legislative laws to the control of the constitutional court (i.e., when the president gives orders), which settles the case within 10 days⁽²⁾. In this context, paragraph 03 of the Article 198 provides that if the constitutional court rules the unconstitutionality of an order, it loses its force starting from the issuance of the ruling. The president of the republic can legislate in case of the vacuum the National Popular Assembly and the parliamentary recess. Thus, the constitutional founder obliged the president to notify the constitutional court about these points before presenting the orders to the parliament. Later, the president presents the orders to the two chambers of the parliament in the beginning of their sessions to ratify or refuse them.

In addition, the president of the republic may legislate when the state, the constitutional institutions, and the independence are endangered. In this case, he declares the exceptional state within 60 days. Because this state allows the president to take exceptional measures, he may give orders due to the difficulty of the parliament meeting and the long procedures if it meets. Hence, the constitutional founder granted guarantee to the

¹ Mesrati Salima, the system of control on the laws constitutionality in the light of the constitution and the jurisprudence of the Algerian constitutional council (1989-2010), Houma house for printing, publication, and distribution, Algeria, 2012, p. 118.

² Article 142 of the constitutional amendment



constitutional court through presenting the decisions taken during the exceptional case to consider. Nevertheless, he did not provide for the binding force of the constitutional court.

The president exercises the organizational authority outside the frame of the law and does not deal with the topics made by the constitutional founder as a field for the law to be handled by the parliament⁽¹⁾. Because the president can enact regulations, it is necessary to subject them to the constitutional court control, as provided for by the paragraphs 1, 3, and 4 of the constitutional amendment of 2020. These paragraphs provide for subjecting the regulations to the posterior control by the constitutional court within a month of their publication. Besides, it considers the correspondence of the regulations with the laws and conventions, without the constitutional founder determining the conventions that go with the laws and regulations that were subject to the court control⁽²⁾; in addition to the possibility of exception of constitutionality⁽³⁾.

2.4- the exception of unconstitutionality:

It is a posteriori control mechanism that allows one party of the litigants to refuse the application of the law because it contradicts with the constitutional rights and freedoms. Article 195 of the constitutional amendment of 2020 provides that the constitutional court can be notified about the exception of constitutionality when one of the litigants sees that the legislative or organizational text that governs the prosecution violates his constitutional rights and freedoms. This is based on a referral by the supreme court or the state council. This procedure is exercised when the request meets the conditions provided for by the organic law 22/19⁽⁴⁾ that shows the procedures and methods of notification. The conditions are as follows:

➤ the formal conditions:

➤ the exception of constitutionality by one of the litigants:

The request must be submitted by one of the litigants, as paragraph 01 of Article 195 uses the expression “one of the litigants⁽⁵⁾”. In this context, it did not clearly show who the parts who have the right to raise the exception of constitutionality are. The same applies for law 18-16 and Article 15 of the organic law 22-19. Besides, paragraph 01 of Article 17 of this law disallows the judge and the general prosecutor to request the referral⁽⁶⁾. Nevertheless, the law allows them to provide written remarks about the exception of constitutionality under request from the constitutional court⁽⁷⁾. This was not provided for by the organic law 18-16⁽⁸⁾. In addition, Article 22 of the organic law 22-19 provided for the first time for widening the cycle of referral and enabled any party with interest to intervene in the request of referral to the judicial bodies through a detailed and justified written memorandum before the issuance

¹ Alili Messouad, the control on the constitutionality of the laws in Algeria –comparative study-, Magister thesis in the “administrative” general law, University of Hadj Lakhder, Batna, 2000-1999, p. 145.

² See Article 190 of the constitutional amendment of 2020.

³ See Article 195 of the constitutional amendment of 2020

⁴ The organic law 22-19 of 25 July 2022 on the procedures and measures of notification and referral to the constitutional court.

⁵ Farid Debboucha, the constitutional court in Algeria, study in the light of the constitutional amendment of 2020 and the various legislative texts: study supported by the comparative laws, thoughts house, Algeria, 2023, p. 81.

⁶ For further, see paragraph 01 of Article 17 of the organic law 22-19, op. cit.

⁷ For further, see paragraph 02 of Article 17 of the organic law 22-19, op. cit.

⁸ Kenza Belahcen & Tahar Zouakri, the exception of constitutionality between the fixed and the change (comparative study between the organic law 18-16 and the organic law 22-19), journal of the researches in laws and political sciences, Vol. 09, No° 01, 2023, p. 147.



of the decision of the judicial bodies. When the request is accepted, he undergoes the same procedures that apply for the litigants⁽¹⁾.

➤ **exception of unconstitutionality in front of the judicial bodies:**

It is possible to raise the exception of constitutionality in front of the justice that considers the issue before considering the original case, be it ordinary or administrative, at the primary or administrative court, or during the appeal in front of the judicial council or the administrative appeal court that was established by paragraph 02 of Article 179 of the constitutional amendment of 2020 and was provided for by Article 8 of law 22-07 on the judicial division. Moreover, it can be raised when making a cassation appeal at the supreme court or the state council. Furthermore, it can be raised during the judicial investigation⁽²⁾. In addition, the organic law 22-19 provided for the right to raise the exception of constitutionality at the primary courts, unlike the abolished law 18-19 that did not allow this.

➤ **The obligatory submission of a memorandum to raise the exception of constitutionality:**

Article 19 of the organic law 22-19 provided for submitting a detailed and justified memorandum to raise the exception of constitutionality, not a petition. It is to be submitted separately from the original case to be considered by the judge before settling the original case. Besides, the memorandum must explain the unconstitutionality to examine the seriousness of the request.

➤ **The objective conditions:**

Paragraph 01 of Article 195 of the constitution determines the objective conditions to be met in the written memorandum. They are the same conditions included in Article 21 of the organic law 22-19, in addition to some other conditions as follows:

➤ **the conditions of the contested provision:**

Article 195 of the constitutional amendment 2020 widened the control on the constitutionality of the laws to include organizational provisions that are related to some freedoms and rights. Nevertheless, the constitutional founder did not identify the concerned by the organizational provision. The contested provision must be the one that governs the case. The request may cover one or many articles and paragraphs. Moreover, the requester must be concerned with the effect of the provision because if the provision does not necessarily govern the case or may not be applied to the case, the request is not serious and is refused. Besides, the provision must violate the constitutional freedoms and rights.

➤ **The contested provision does not have a presumption of constitutionality:**

Article 21 of the organic law 22-19 provides that the contested organizational or legislative provision must not be a provision that had been considered by the state council or the constitutional court, except if the circumstances change. Thus, the constitutional court does not consider a provision for a second time because its ruling is not contestable. However, the provision may be contested if it is amended or the provisions used to rule its constitutionality are amended.

➤ **the seriousness of request:**

¹ For further, see Article 22 of the organic law 22-19, op. cit

² Hanan Missaoui, the conditions of the exception of constitutionality according to the organic law 22-19, journal of legal and political studies, Vol. 07, No 02, December 2022, pp. 654-639.



It is an important condition that aims at keeping the case short. Nevertheless, the legislator did not identify common criteria to estimate the seriousness of the request and left the task to the judge discretion⁽¹⁾. This does not mean that the judge can decide the constitutionality of the contested provision because it is the task of the constitutional court. Thus, the judge respects the limits that allow him to estimate the availability of the conditions provided for by Article 21 of the organic law 22-19.

3. The Special jurisdiction of the constitutional court:

The constitutional court considers the contests against the temporary results of the elections, declares the final results, settles the disputes between the constitutional authorities, and interprets the constitution.

3.1- The constitutional court as the judge in the elections:

The constitutional court considers the contests against the temporary results of the presidential elections, legislative elections, and the referenda, and declares the final results. Therefore, this chapter discusses the contests against the temporary results of the presidential elections (part one), the settlement of the contests against the temporary results of the legislative elections (part two), and the declaration of the referenda results (part three).

3.2- The consideration of the contests against the temporary results of the presidential elections:

The Independent National Authority of the Elections INAE is in charge of declaring the temporary results of the presidential and legislative elections and referenda, while the constitutional court receives the contests about the vote casting and the final results⁽²⁾. The constitutional court exercises the prior constitutional control on the candidatures to the presidential elections through considering the candidates' appeals in case their candidatures is refused. In this regard, the refusal by INAE is contested within the next 48 hours from the notification. Then, INAE sends its decisions and the candidature applications to the constitutional court within 24 hours of the date of their issuance⁽³⁾.

The constitutional court must adopt the final list of the candidates for presidential elections within 07 days and publish the decision in the official gazette; its decisions are binding and unchangeable⁽⁴⁾. However, a candidate may die or face obstacles after the constitutional court adopts the list. Thus, the legislator gave the constitutional court the right to prove the dangerous obstacle or the death of the candidate after the approval and publication of the candidatures. Besides, the vote is delayed for 15 days⁽⁵⁾. In addition, the constitutional court settles the appeals against the results of the presidential elections within 48 hours of the declaration of the results; in case the period is exceeded, the request is formally refused⁽⁶⁾. The appeal is settled within 03 days of its reception⁽⁷⁾. Moreover, the

¹ Jebbari Abd el Majid, the right to raise the exception of constitutionality, Houma house for printing, publication, and distribution, Algiers, 2019, p. 18.

² Ammar Abbas, the jurisprudence of the constitutional court in the elections, journal of the constitutional council, Vol. 17, 2022, University of Mostafa Stambouli, Mascara, p. 123.

³ See paragraph 03 of Article 252 of the organic law of 10 March 2021 on the elections system, official gazette 17 of 10 March 2021.

⁴ See paragraphs 4 and 5 of Article 252 of the organic law 21-01, op. cit.

⁵ See Article 255 of the organic law 21-01, op. cit.

⁶ See paragraph 4 of Article 259 of the organic law 21-01, op. cit.

⁷ See paragraph 1 of Article 260 of the organic law 21-01, op. cit.



constitutional court declares the final results of the presidential elections after receiving the proceedings from INAE.

3.3- the settlement of the contests against the temporary legislative results:

The constitutional founder charged the constitutional court with monitoring the legislative elections. In this regard, the president of INAE declares the results within 48 hours of the reception of the proceedings of the electoral, Wilaya, and diaspora committees⁽¹⁾. In need, the deadlines can be extended to 24 hours by INAE. Each list of candidates and parties for the legislative elections have the right to contest the temporary results through a petition to the constitutional court within 48 hours of declaring the results. Then, the constitutional court notifies the contested list or candidate to provide a written memorandum to the constitutional court within 72 hours of submitting the contest. After the deadline, the constitutional court considers the contest within 03 days. It is the same deadlines for the elections of the MPs. If the constitutional court sees that the contest is grounded, it issues a justified decision about cancelling the contested vote or reformulating the proceeding and declaring the legitimate candidate.

The constitutional court makes the final results of the legislative elections and declares them within 10 days from the reception of the temporary results from INAE⁽²⁾. However, the deadlines can be extended to 48 hours by the president of the constitutional court. After ending the voting, the constitutional court receives the proceedings of the results of electing the members of the National Popular Assembly by the diaspora citizens from the Wilaya committees, and the proceedings of electing the members of the house of commons.

3.4- Declaring the results of the referendum:

The constitutional founder charged the constitutional court with settling the contests against the primary results of the referendum; it was not in charge of this in the past⁽³⁾. The Wilaya electoral committee collects the results of the municipalities of the Wilaya and makes statistics about the votes. Its works end within the 72 hours that follow the end of the referendum. Then, it submits its proceedings in a sealed envelope to the secretary of the constitutional court and gets a receipt. The president of INAE declares the temporary results within 72 hours from the reception of the proceedings of the electoral, Wilaya, and diaspora committees.

As for the control of the constitutional court on the contests against the results of the referendum, the contest must be supported by an objection in the counting record in the voting office before submitting it to the secretary of the constitutional court within 48 hours that follow the declaration of the temporary results. After the constitutional court settles the contests, it issues its decision and declares the final results of the referendum within 10 days of receiving the electoral proceedings of the Wilaya and diaspora committees⁽⁴⁾. Thus, we can say that the referendum is one of the optimal tools to express the will of the people and embody the development of the political life in the democratic regimes. It enables the people

¹ See Article 209 of the organic law 21-01, op. cit.

² See Article 211 of the organic law 21-01, op. cit.

³ Bekalem Morad, the jurisprudence of the constitutional court related to the elections in Algeria, journal of comparative legal studies, Vol. 09, No° 01, 2023, pp. 631-614.

⁴ See Articles 266 and 275 of the organic law 21-01, op. cit.



to participate in managing the state issues and important national decisions, despite the issue of honesty of the results that is triggered in each event⁽¹⁾.

4. the advisory jurisdiction:

In addition to the diverse controls by the constitutional court to protect the supremacy of the constitution and its provisions, it is in charge of advisory tasks in ordinary and unordinary states.

4.1- Consulting the head of the constitutional court when declaring the state of emergency or embargo:

The president of the republic declares the state of emergency or embargo for a maximum of 30 days, after a set of constitutional procedures, including the consultation of the head of the constitutional court⁽²⁾. The head of the constitutional court is consulted because the constitutional court is constitutionally competent to protect the constitutional provisions, freedoms, and rights. The consultation of its head strengthens the legitimacy of the decision of the president of the republic about the state of emergency or embargo.

4.2- Consulting the head of the constitutional court when declaring the exceptional state:

The resort to the exceptional states widens the prerogatives of the administration in the administrative regulation. Therefore, the constitutional founder has to handle them constitutionally through showing the limits of the authorities of the administrative regulation in the exceptional case, mainly the conditions of its declaration because it may affect the freedoms and rights of individuals. If the consultation is enshrined by the previous constitutions, the new point in the constitutional amendment of 2020 is the presentation of the decisions taken during the exceptional state for consideration by the constitutional court when the exceptional state ends⁽³⁾.

4.3- seeking the opinion of the constitutional court about the conventions:

Article 102 of the constitutional amendment of 2020 allows the president of the republic to sign the truce and peace conventions, after seeking the attitude of the constitutional court⁽⁴⁾. We notice that the constitutional founder amended Article 111 of the constitution of 1996 in 2020 and shifted from the compulsory control over the peace and truce convention to seeking the advice. This means that the president of the republic makes the constitutional procedures before ratifying these conventions, mainly consulting the constitutional court; however, he is not obliged to.

4.4- Seeking the opinion of the constitutional court when the president of the republic decides to dissolve the National Popular Assembly:

The constitutional founder granted the president of the republic the authority of dismantling the National Popular Assembly or making early votes after consulting the head of

¹ Samira Attouta, the control on the constitutionality of the laws in Algeria: from the constitutional assembly to the constitutional court, PhD in general law, University of Mohamed el Bachir al Ibrahimi, Bordj Bou Arriridj, 2020-2021, p. 138.

² Souad Omail, the legal system of the constitutional court in Algeria: reading in the provisions of the constitutional amendment of 2020, journal of the comparative legal studies, Vol. 07, No° 07, 2021, p. 1576.

³ See the last paragraph of Article 98 of the constitutional amendment of 2020.

⁴ See Article 98 of the constitutional amendment of 2020 that provides that the president of the republic signs the truce and peace conventions. He seeks the attitude of the constitutional court about the conventions. He presents the conventions immediately to the two chambers of the parliament to ratify them.



the constitutional court⁽¹⁾. These votes are generally made within 03 months. In case it is not possible, another delay of 03 months is extended after consulting the constitutional court⁽²⁾.

5. Settling the disputes between the constitutional authorities and interpreting the constitution:

This section discusses settling the disputes between the constitutional authorities in the first part and interpreting the constitution in the second.

5.1- Settling the disputes between the constitutional authorities:

The constitutional court can settle the disputes, unlike the past, to avoid the crises between these authorities and guarantee the continuity of the constitutional institutions. The constitutional court may be notified when a dispute arises between the constitutional authorities, according to Article 192, through a written justified letter⁽³⁾. Then, the constitutional court considers this notification by a decision within 30 days of its notification. The deadline may be reduced to 10 days based on a request from the president of the republic in emergencies⁽⁴⁾.

5.2- interpreting the constitution:

The constitutional founder allows the constitutional court to interpret one or many provisions of the constitution. This is very important for the authorities and institutions of the state. In addition, the bodies identified in Article 193 have the right to notify the constitutional court about the interpretation of the constitutional provisions to determine their real meaning and unveil the vagueness. Besides, Article 13 of the organic law 22-19 identified the procedures of notification and referral. In this regard, if the constitutional court notifies about interpreting one or many constitutional provisions, it gives its opinion within 30 days of its notification. The constitutional court considers the constitutionality of the laws by decisions and gives its opinion about the interpretation of the constitutional provision. However, we see that the interpretational opinion of the constitutional court is binding to all the authorities in the state. Therefore, the legislator must provide for the force of the opinion about the interpretation of the constitutional text.

Conclusion:

Based on what was said, the constitutional amendment of 2020 affected many aspects regarding the provisions of the constitutional court. Thus, we found a set of results and suggestions as follows:

First: results:

- The shift from the political to the judicial control through the constitutional court and the establishment of new competencies mark a giant leap towards democracy.
- The enlargement of the competencies of the constitutional court to cover the control over the correspondence, the constitutional control, the exception of constitutionality, the compatibility of the laws with the conventions, the control over the presidential orders and regulations, the control over the referendum, and the declaration of the results of the legislative and presidential elections.

¹ See paragraph 01 of Article 151 of the constitutional amendment of 2020.

² Souad Omail, op. cit., p. 1575.

³ See Article 11 of the organic law 22-19, op. cit.

⁴ See Article 13 of the organic law 22-19, op. cit.



- Among the new competencies of the constitutional court, we find the settlement of the disputes between the authorities due to the violations of their competencies.
- The constitutional court plays a vital role through guaranteeing the continuity of the state and its constitutional institutions in the light of the unordinary conditions, the exceptional state, and the control over the conditions of its declaration.
- The constitutional court can interpret the constitutional provisions based on a request from the bodies that have the right to contact the constitutional court. This contributes to the good understanding of the deep meaning of the constitutional provisions.
- The mechanism of exception of constitutionality has been maintained, but with new legal provisions through the organic law 22-19 that identifies the procedures and methods of notification and referral at the constitutional court.
- The organic law 22-19 grants the general prosecutor the ability to provide written remarks about the exception of constitutionality, which was absent in the organic law 18-16.
- The organic law 22-19 enables the litigants to raise the exception of constitutionality at the primary penal courts, after it had been limited to the appeal courts by the organic law 18-16.

Second: suggestions

- Promoting the mechanism of the automatic notification for the constitutional court and widening the notification to cover all the public authorities, not only the legislative and judicial ones to strengthen the constitutional legitimacy.
- Making amendments on the control over the correspondence of the laws and regulations with the conventions through determining the conventions that go with the laws and regulations in the conventions that were subject to the control of the constitutional court.
- Widening the range of the contested texts.

Amending the last paragraph of Article 198 of the constitutional amendment of 2020 to make the opinions of the constitutional court binding to all the public, judicial, and administrative authorities.

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