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The constitutional court in Tunisia : The constitutional judge is still absent.

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Abstract:

The constitutional court in Tunisia was one of the most important post revolution gains acquired , it was institionalized in the 2014 Tunisian constitution , however it has been disrupted every time , the first time because of the divergences between parliamentary blocs in the assembly of the people's representatives , the second time because of the president of the republic Kais Saeed who went further when he amended the constitution in 2022 and the whole constitutional architecture under the persistent absence of the constitutional judge , which is considered to some a threat to the constitutional legitimacy and a dragging of the country into authoritarianism .

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Introduction

Constitutional justice is the only guarantee of the principle of the supremacy of the constitution and the protection of rights and freedoms and one of the pillars of the establishment of the state of law , taking into account the different models adopted whether a political or judicial model , although the current trend is towards adopting the judicial model as systems are racing into the adoption of constitutional courts as a mechanism monitoring the constitutionality of laws and regulations and as an indication of the break-up with previous regimes [1].

This what happened in Tunisia in 2014 with the constitutional amendment that institutionalized the Constitutional Court as an independent judicial body charged with monitoring constitutionality of legal texts of various value, type, and source, this body is also charged with mediating political disputes that may arise between the different constitutional authorities especially between the President of the Republic and the head of government. The Tunisian Constitution of 2014 and the law regulating the rules of procedure the Constitutional Court N° 50 of the year 2015 dated of 03/012/2015 attempted to involve different branches in terms of forming the Constitutional Court and in terms of the right to access to it.

Despite all these constitutional and legal guarantees, the Constitutional Court has not been installed in Tunisia until this day due to several factors mainly political divergences that were primarily between different parliamentary blocs in the Assembly of Representatives of People (hereinafter ARP) , these differences caused the blocking of the formation of the Tunisian Constitutional Court (hereinafter TCC) for several years, ending with the announcement of state of emergency and the suspension of Parliament by the President of republic.

Hence , in 2022 the President of the republic took the initiative to amend the Tunisian Constitution of 2014 , one of its changes was the amendment the legal status of the Constitutional Court despite maintaining it as a judicial body charged with constitutional justice , this amendment affected the organic composition of the Constitutional Court as the ARP deputies were excluded from the right to participate in the formation of the Constitutional Court , the new constitution of 2022 initiated by the Tunisian president also affected the CCT powers by noticeably reducing them .

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Once again, and despite the simplicity of the formation of the Constitutional Court, its formation was disrupted again but this time not because of the representatives of the People's Assembly as it happened in the first time but because of the President of the republic Kais Saieed who had a new vision for the Tunisian future regime.

This paper seeks to shed the light on the following :

1- How did the various post revolution constitutional amendments in Tunisia affect the legal status of the Constitutional Court ?
2- Why is its formation disrupted every time and by whom ?
3- What is the impact of its absence on the principle of the supremacy of the constitution and on the establishment of the state of law ?

To answer these questions we propose the following search plan :

First topic : The TCC a constitutional gain lost in parliamentary divergences
First section : The TCC structure and competences under the 2014 constitution
Second section: The blocking of the TCC by the ARP's deputies

Second topic : Authoritarianism risks under the persistent absence of the TCC
First section : The TCC structure and competences under the 2022 constitution
Second section : The blocking of the TCC by the president of the republic

First topic:
The TCC a constitutional gain lost in parliamentary divergences

The TCC was one of the post revolution most important acquired in the field of constitutional justice granted with a strong and impartial organic composition and vital competences and prerogatives , this gain was lost in vain after parliamentary blocs caused the blocking of the TCC formation for several years

First section:
The TCC structure and competences under the 2014 Constitution

The Tunisian Constitution of 2014 is considered as a break-up with the previous regime, this break-up included the creation of a constitutional court charged with

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constitutional justice , the break –up also was reflected in the composition and competencies of this body .

A- TCC structure:

The Constitutional Court in Tunisia was composed under the 2014 Constitution of 12 members, three-quarters of whom are specialists in law , the twelve members of the Constitutional Court are elected or appointed depending on the case successively by the ARP , the Supreme Judicial Council, and the President of republic, for a nine years nonrenewable mandate [2] .Each body chooses four members , however, the issue appeared in the method of appointing the four members of the Constitutional Court by the ARP and the Supreme Judicial Council, after the great debate this issue has caused, the matter has settled on giving priority to the nomination mechanism , as for the ARP the opinion has settled that four of them will be elected by a two-thirds majority to membership in the Constitutional Court , as for the members elected by the Supreme Judicial Council, they are selected by the court of cassation , the high administrative court and the court of accounts (the financial judicial order in Tunisia) , each judicial order has the right to propose four names at the session provided that three of them are specialists in law, the plenary session of the Supreme Judicial Council will elect by secret ballot and by a two-thirds majority the four members , successive electoral sessions are repeated when necessary until the election is completed, and in the event of a tie in votes obtained , the eldest candidate shall be declared the winner ; while the matter is easier for the four members appointed by the President of the republic as three-fourths of whom are also required to be law specialists .

As for the age of members of the Constitutional Court they must reach fifty years and once elected they shall be nominated by presidential decree published in the Official Gazette of the Tunisian Republic (Erraid) , then they should take the oath before the President of the Republic and as soon as the members of the Constitutional Court meet they will electing by secret ballot and by the majority of its members the president of the court and his deputy provided that the two of them must be specialists in law [3].

B- The TCC Competencies and prerogatives:

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They vary between original powers related to monitoring the constitutionality of laws and other powers related to preserving balance within the executive branch and maintaining the constitutional legitimacy.

A- Original competences: it includes [4]

1- Constitutional oversight of amending the constitution process : the Speaker of the ARP have to present every initiative to amend the constitution to the Constitutional Court within a maximum period of three days from the date on which the amendment initiative reaches the assembly's desk , both the President of the Republic and the head of government will be informed of the amendment initiative ,the Speaker of the ARP also presents to the Constitutional Court bill laws amending the constitution within a maximum period of three days from the date of their approval by the ARP deputies to monitor the constitutionality of the amendment content and procedures.

2- Monitoring the constitutionality of treaties: the President of the Republic may present treaties to the Constitutional Court to monitor their constitutionality before the draft law approving them is finalized.

3- Monitoring the constitutionality of draft laws: the President of the Republic, the head of government or at least thirty deputies in the ARP may file an appeal regarding the unconstitutionality of draft laws within a maximum period of seven days from the date the ARP's approval of the draft law in its first version or from the date of its approval in an amended version , the appeal against the draft budget laws must be filed within a maximum period of three days from the date of the assembly's approval of it on a second reading after the response, or from the date of the expiry of the deadlines for the President of the Republic to exercise the right of response without it occurring .

4- Monitoring the constitutionality of laws: litigants may argue that the law applicable to their dispute is unconstitutional by the invocation of a claim of unconstitutionality, in this case the courts must immediately refer the matter to the Constitutional Court , the referral decision will stop the ruling of the original case and the deadlines are suspended starting from the date of the referral until the constitutional court reaching a decision .

5-Monitoring the constitutionality of the rules of procedures of the ARP: The Speaker of the ARP presents to the Constitutional Court the text providing the

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rules of procedures of the first assembly in the parliament including all the amendments introduced to it immediately upon approval of it by the deputies.

Article 120 stated that only laws, draft laws, treaties, and the rules of procedure of parliament may be submitted to the court; administrative decisions, including executive orders, are noticeably absent. The administrative courts, therefore, will control the constitutionality of administrative decisions, opening the door to inconsistent views on the proper application of particular constitutional articles between the administrative courts and the Constitutional Court. [5]

Other powers granted to the TCC : it includes

1-Removal of the President of the Republic: The Speaker of the ARP may present to the Constitutional Court a list of dismissals of the President of the Republic for serious violation of the Constitution after approval by a two-thirds majority of the members of the ARP within a period not exceeding forty-eight hour , the demand must be justified [6].

2-Constatation of a vacancy in the position of the President of the Republic: In the event of a temporary vacancy in the position of the President of the Republic, the Constitutional Court shall meet immediately, if it does not convene, it shall be convened by the speaker of the ARP or half of its members to approve the temporary vacancy. The President of the Court or his deputy shall inform the speaker of the ARP and the head of government by the court's decision within a maximum period of forty-eight hours.

In the event of a permanent vacancy in the position of President of the Republic, if the temporary vacancy exceeds sixty days, or in the event of an official announcement of the death of the President of the Republic or his resignation submitted in writing, or in the event of his inability to perform his duties permanently, or for any other reason for the final vacancy, the Constitutional Court shall meet immediately, if it does not convene, it will be called upon by the speaker of the ARP or half of its members to approve the final vacancy in the position of President of the Republic [7].

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3-Receiving the presidential oath: before the President of the Republic starting his mandate, he should take the constitutional oath before the CCT in the event of the dissolution of the House of Representatives of the People[8].

4- Persistence of the state of emergency: thirty days after the announcement of the exceptional measures takes effect and at every time thereafter, the Constitutional Court undertakes a written petition signed by the Speaker of the ARP or thirty deputies to decide whether or not the state of emergency continues, the CTT must rule about it within a maximum period of fifteen days from the date of receive the petition [9].

5- Mediating disputes related to the jurisdiction between the President of the Republic and the head of government: in case of a conflict of jurisdiction between both the President of the Republic and the head of government, the most attentive of both parties shall submit the dispute to the TCC with a reasoned written petition for a decision, the Constitutional Court shall issue its decision within a maximum period of seven days from the date of the petition[10].

Second section:
The blocking of the TCC by the ARP's deputies

After the Tunisian Constitution of 2014 established the Constitutional Court and after the issuance of the law including the rules of procedures of the Constitutional Court, it was expected that the Constitutional Court will be formed within a year of election of the ARP , given that four members should be elected by the deputes of the first chamber . Just after the election of the first chamber members, attempts began for electing the four members of the Constitutional Court, however, all eight attempts failed due to the failure of the representatives to agree on the same candidates and accordingly gathering the two-thirds majority required to elect a member of the Constitutional Court, estimated at: 145 votes out of 217 total votes .

The political differences between the parliamentary blocs caused the disruption of the election of the four members, this delay had serious consequences on the protection of the constitution and the protection individuals' rights and freedoms .

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At that time, the ARP had no choice but to initiate an amendment to the law including the rules of procedure of the TCC N° 2015/50 in the hope of reducing the two-thirds majority required to elect the four members of the TCC ; thus, on March 25, 2021, the ARP initiated a bill law bill to amend the law regulating the Constitutional Court of the year 2015 , in order to reduce the majority of two thirds required for electing the parliament share in the TCC into the three fifths, meaning from 145 votes to 131 votes only out of 217 total votes.

This bill was rejected by the Tunisian President Kais Saieed on April 4, 2021, his argument was that the 2014 Tunisian Constitution gave the President of the Republic the right to approve or disapprove the ARP law bills , he also considered that his disapproval was on the pretext that the ARP was based on the fifth paragraph of Article 148 of the 2014 Constitution was obligated to elect the four members of the Constitutional Court within a maximum period of one year after its legislative elections which was in the beginning in the year 2019 [11].

It is obvious that the Tunisian President, Kais Saieed , granted himself the authority to interpret the provisions of the Constitution in of the absence of a Constitutional Court qualified to exercise this right of interpreting the provisions of the Constitution , this same court is qualified to monitor the constitutionality of acts issued by the President of the Republic [12].

Hence political disagreements within the first chamber between the major parliamentary blocs led by the Islamic Movement and the Democratic Movement, stifled all attempts to elect the four members of the Constitutional Court and what made it even worse was the strict majority required for this, estimated at two-thirds, that is: 145 votes out of 217 total votes.

This situation prompted the parliamentary coalition at that time to make another attempt to amend the law regulating the Constitutional Court N° 50/ 2015 , as in the beginning of May 2021, the ARP initiated again a law bill to amend it , the content of the amendment this time was to simply elect three members of the TCC , this number corresponds to 131 votes sufficient to elect them instead of 145 votes which was impossible to gather due to the differences between the parliamentary blocs , the strange thing is that this time the bill was not objected by the Tunisian president, but by the representatives themselves in the first chamber of the democratic parliamentary bloc who appealed against the bill before the interim council charged with monitoring the constitutionality of laws on May 8, 2021 ,

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however the interim council charged with monitoring the constitutionality of laws rejected this appeal on the basis of not having the necessary majority of approving it which is the majority of two thirds [13].

Face to these events , the President of the Tunisian Republic, Kais Saieed, had no choice but to take a number of radical measures on July 25 , 2021 in accordance with the text of article 80 of the Tunisian Constitution of 2014, the goal of which, according to him, was to save the Tunisian Republic [14], these measures consisted on the :

- Declaration a state of emergency
- Suspension of the parliament
- Dissolving the interim council charged with monitoring the constitutionality of laws
- Revoking of the head of government and some senior officials and consultants in the government.

Many Tunisians who initially supported the president's actions as a bold attempt to break the paralysis in governance had publicly urged him to present a road map before the 30 days ended, a demand that the president dismissed [15] .

Of course in the absence of a judicial body charged with constitutional justice and mediating disputes between constitutional institutions which is the Constitutional Court, it was not possible to challenge the unconstitutionality of the measures taken by the Tunisian president, although the democratic parliamentary movement in the ARP highly supported these measures and believed it aimed to save the Tunisian Republic and correct the democratic path [16], while another bloc in the same chamber considered these measures as a coup against constitutional legitimacy, especially in the absence of the TCC charged with protecting the provisions of the Constitution and protecting rights and freedoms.

After few months , these measures were not enough for the Tunisian President when he went further by initiating a constitutional amendment ; the Constitutional Court who was supposed to monitor the constitutionality of the content and the procedures of this constitutional amendment was still absent , thus the constitutional amendment was passed after submitting it to a popular referendum , knowing that this constitutional amendment of the year 2022 affected the legal

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status of the TCC especially its composition and its prerogatives , compared to what was provided under the Tunisian Constitution of 2014.

Second topic:
Authoritarianism risks under the persistent of the absence of the TCC

The Tunisian constitution of the year 2022 did simplified the TCC composition process by excluding the ARP from taking part in it , and yet the constitutional judge in Tunisia is still absent due this time to the presidential blocking, the persistence of this absence may drag the country into a presidential authoritarianism .

First section:
The TCC structure and competences under the 2022 Tunisian Constitution

The mutation's features from semi-presidential regime into a presidentialist regime appears clearly on the new structure and competences of the TCC after the constitutional amendment of the year 2022 .

A – the TCC structure :

The current Tunisian Constitution of 2022 established a Constitutional Court with a completely different composition than what it was under the Constitution of 2014 in terms of number, source , and even of their background In term of numbers, the number of members of the Constitutional Court is now limited to only nine members instead of twelve , in term of source and background , all members of the Constitutional Court must be judges .

The article 125 of the current Tunisian Constitution, under Part Five, entitled "The Constitutional Court," states that: The Constitutional Court is an independent judicial body composed of nine members, the first third of whom are from the eldest heads of chambers in the supreme court, the second third are from the eldest heads of chambers in the high administrative Court, and the last third are from senior eldest members of the Court of Accounts .

The members of the Constitutional Court are nominated by the President of the republic with a presidential decree published in the Gazette of the Tunisian

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Republic; it is obvious the complete exclusion of Parliament and precisely the first chamber on it the ARP.

It is also obvious that all the members of the TCC are judges as the rest of the specialists in law such as university professors and lawyers, they have been excluded from the right to be nominated for the position of member of the TCC which is contrary to what is practiced in the constitutional courts in the world [17] . Following July,25 of the year , the judicial landscape underwent transformations marked by the dissolution of the supreme judicial council , moreover , the president Kais Saeed issued a series of decrees an orders to reestablish and reform the composition of the supreme judicial council and reorganize the work of judges and courts , an exceptional measures marked a significant shift in the trajectory of the Tunisian judicial system it conferred to the president of the republic the sole authority to manage and regulate the justice system , he is now empowered to issue laws that rules the organization of courts and review litigations procedures [18].

Once nominated by the president of the republic, the member of the TCC will be electing their president, although the constitution does not specify the majority necessary for that and it is not possible to be certain of this matter in the absence of the law regulating the rules of procedure of the TCC, which neither the President of the Republic nor the ARP deputies have initiated to this day .

what is strange is that, even with the simplicity of the formation of the Constitutional Court compared to what was under the 2014 Constitution, it has not been installed until now, it is obvious that the obstruction this time is not because of the ARP deputies but because of the President of the republic Kais Al-Saeed who apparently has new plans for the reorganization of the balance of powers in the new Tunisian regime under the new constitution of 2022 .

B- The TCC competences under the 2022 Tunisian constitution

The majority the original competences of the TCC remained under the 2022 Constitution including:

- Monitoring the constitutionality of laws
- Monitoring the constitutionality of laws by referral from a lower courts after the invocation of claim of constitutionality by one of the parties in a litigation

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- Monitoring international treaties.
- Monitoring constitutional amendments drafts in term of content and procedures

However, when digging deeper in the provisions of the 2022 constitution especially the one related to the Constitutional Court prerogatives and competencies , we noticed either the cancellation or amendment of some of the constitutional provisions that were under the 2014 Constitution, especially those related to the TCC monitoring the relationship of the President of the Republic with the rest of the constitutional bodies especially the head of government and the ARP deputies , or to the removal of the president of the republic with initiation by the ARP's deputies , the continuation of the state of emergency declared by the president , or to the right of the TCC in mediating the jurisdiction's disputes between the president of the republic and the head of government , all these TCC old competencies under the 2014 Tunisian constitution strangely disappeared under the 2022 new Tunisian constitution .
There is only one explanation for such decline which is the transformation that the Tunisian constitutional regime witnessed after the year 2022 from a semi-presidential regime to a presidential regime , if not a strict presidentialist [19]system as many indicators in the constitutional provisions show that this transformation has occurred , this transformation is a desire from of the President of the republic to gain control on the largest number of powers but at the same time to liberate himself from any constitutional restrictions , the aim of which was to create a balance between the different constitutional powers : the President of the Republic, the head of the government , and the Assembly of People's Representatives , this balance which the Constitutional Court was supposed to guarantee with its competences and prerogatives in this field that completely disappeared under the president's constitutional amendment of the year of 2022 .

In fact the real problem currently in Tunisia is not the decline witnessed in the composition and powers of the TCC after the year 2022 compared to the gains achieved in the post- revolution 2014 Tunisian constitution , as much as it is the continued obstruction of the formation of the TCC , this time not because of the ARP's parliamentary blocs on top of them the Islamic and the democratic bloc,

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but because of the President of the republic Kais Al-Saeed the former constitutional law professor .

Second section:
The blocking of the TCC by the president of republic

The TCC has yet to see the light of today despite the fact that Tunisian President Kais Saied has dissolved the interim council charged with monitoring the constitutionality of laws , this situation of vacancy in the field of constitutional justice has raised the worries of many politicians and law specialists especially if we keep in mind that the new Tunisian constitution of 2022 has brought an essential change which is the fact that that the President of the Constitutional Court has become the second personality in the state instead of the ARP's speaker as it was stated under the 2014 Tunisian constitution [20] , hence the President of the TCC as the second personality in the constitutional regime is supposed to assume the duties of the presidency of the state in accordance with the text of Article 109 of the Constitution in the event of vacancy of the position of the President of the republic due to either death, resignation, impediment, or for any other reason , temporarily for a minimum period of 45 days and a maximum period of 90 days.

Such a constitutional vacancy could drag the country into a dangerous scenario under the persistent absence of the Constitutional Court due to its continued disruption to this day despite the simplicity of the process under the 2022 Constitution compared to what it was stated under the 2014 Constitution where the parliamentary share in the formation of the Constitutional Court was abandoned and it has become the President's of the Republic call to form the TCC which did not happen till this day .

Why then is the Tunisian Constitutional judge still absent , is because of the absence of the law regulating the rules of procedures of the TCC as neither the President of the republic nor the ARP's deputies initiated it , although the abstention of the ARP is understandable to some extent due to their categorical rejection of the current TCC legal status, indeed , they believe that it lacks to constitutional legitimacy as they were completely excluded from participating in its formation , how to explain then the President's of republic continued abstention from initiating a law drafts that includes the TCC rules of procedures.

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The current composition of the TCC as it excludes the first chamber in the parliament the ARP and has become limited to judges only by completely excluding the rest of the legal competencies in the academic and practical fields, has made the representatives of the first chamber not interested at all, neither in in its composition nor in initiating its regulating law , especially if we keep in mind that Art. 120 of the Tunisian Constitution has set a special relationship between judges and the President of the republic, all these considerations confirm that it would have been more correct if the method of electing judges had been more balanced in term of shares an in term academic and practical legal background .

It can be asserted then that after the parliamentary blocs were accused of blocking the formation of the TCC, they are not any more after 2022 as the President of the republic has become the only accused of obstructing the constitutional judge in Tunisia despite the election of ARP long time ago , and despite the seriousness of the this situation under this constitutional vacancy in the second personality position who is supposed to fulfill the presidential position in the event of death, resignation, impediment, or any other reason .

Could the President of the Republic's blocking to the formation of the Constitutional Court be explained by him considering himself the only body empowered to interpret the provisions of the Constitution and therefore refuses any competition from anybody not even the constitutional court the only body competent with this mission according to the provisions of the Tunisian constitution of both 2014 and 2022 , or is it because the Tunisian President refuses to have his orders struck down by the TCC if deemed unconstitutional .

It is clear then, the impact of the recent constitutional amendment on the legal status of the TCC especially since this new constitution rearranged the relationship between the powers so it transformed it from a semi-presidential system to a presidentialist system , this constitutional amendment initiated by the President of the Republic and promulgated without the Constitutional Court's oversight on its content and its procedures , simply because it was absent due to the presidential blocking .

In fact constitutional courts promote the rule of law and the separation of powers, protect individual rights, provide a forum for resolving disputes peacefully, and

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serve as a bulwark against the return of authoritarianism during political transitions [21].

Conclusion

The Republic of Tunisia, like many other Arab countries witnessed a wave of popular protests against social, economic and political conditions , one of its major impacts was the overthrow of old the regime of the departed President Habib Ben Ali as an indication of the establishment of a new regime.

After a transitional period, the Tunisian constitution was amended in 2014, which established a new constitutional regime closer to the semi-presidential system and among the gains acquired was the establishment of an independent and sovereign Constitutional Court charged with constitutional justice , however Tunisia is nowadays experiencing a state of constitutional instability given that the country has been living for nearly ten years without its constitutional judge as the Constitutional Court is witnessing a disruption for different factors and different motives every time .

Many assert that acts such as declaring the state of emergency and suspending the work of Parliament , or even the latest constitutional amendment of 2022, would not have taken place if the Constitutional Court the constitutional judge was around protecting the constitutional legitimacy , as many voices are calling for the formation of the TCC as soon as possible even under its criticized legal status for no reason other than to elect the president of Constitutional Court the second personality in the state and just to avoid the nightmare of having no president to rule the state in case of the vacancy of the president of the republic for whatever reason .

The evolution of events in Tunisia confirms the need for all parties to reach a point of agreement especially regarding the issue of the formation of the TCC , because it is the only authority capable of imposing the supremacy of the Constitution , the protection of rights and freedoms , and imposing the balance between all the constitutional powers in order to achieve a state of law and end any aspects of presidential authoritarianism that the Tunisian people's fought against in the revolution of 2011 .

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Footnotes

[1] Boulagouas Ibtissem , The Constitutional Court in Algeria- Critical Analytical Study , Journal of Science and Knowledge Horizons , volume 04 issue 1 , year 2024 , p 242 .
[2] Article 118 of the 2014 Tunisian constitution .
[3] The last paragraph of article 118 of the 2014 Tunisian constitution .
[4]According to what was stipulated in the article 120 of the 2014 Tunisian constitution .
[5] Dunkun Pickard , Tunisia's new constitutional court , Atlantic center , consulted on February 15 , 2024 at 19 :52 , available on : https://www.atlanticcouncil.org/wp-content/uploads/2015/04/Tunisias_New_Constitutional_Court.pdf .
[6] Article 88 of the 2014 Tunisian constitution .
[7] Article 84 of the 2014 Tunisian constitution
[8] Article 85 of the 2014 Tunisian constitution .
[9] Article 80 of the 2014 Tunisian constitution
[10] Article 101 of the 2014 Tunisian constitution
[11] Aida Ben Salem , Absence de la cour constitutionnelle : des retombées politiques et économiques (analyses) , Anadolu Ajanci ,available on https://www.aa.com.tr/fr/analyse/tunisie-absence-de-la-cour-constitutionnelle-des-retomb%C3%A9es-politiques-et-%C3%A9conomiques-analyse/2328429 , consulted on : March 9 , 2024 .
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[14] Eric Goldstein , IN Tunisia , President's Power Grab and an Absent constitutional court , Human Rights Watch , August 27. 2021 , available on : https://www.hrw.org/news/2021/08/27/tunisia-presidents-power-grab-and-absent-constitutional-court , consulted on : March 24, 2024 .
[15] Eric Goldstein , IN Tunisia , President's Power Grab and an Absent constitutional court , supra –note 13 .
[16] Aida Ben Salem , Absence de la cour constitutionnelle : des retombées politiques et économiques (analyses) , supra- note 10 .

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[17] Boulagouas Ibtissem , p 243 , supra-note 1 .

[18] Arab initiative reform , The judicial system in Tunisia : The diagnosis of a crisis , February 9 , 2024 , available on : https://www.arab-reform.net/publication/the-judicial-system-in-tunisia-the-diagnosis-of-a-crisis/ , consulted on : April 14 2024 .

[19] For more information about the presidentialist system see : Benabou Fatiha , Introduction au Droit constitutionnel , OPU , Algeria , 2015 , p-p 299 – 310 .

[20] Article 109 of the 2022 Tunisian constitution .

[21] Dunkun Pickard , Tunisia's new constitutional court , Atlantic center , supra-note 4 .