

# 'THE CONSTITUTIONAL COURT OF ALGERIA BETWEEN NECESSITY AND TRADITION'

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**Abstract:** *The 2020 constitutional amendment led to the establishment of a new constitutional institution, the Constitutional Court, replacing the Constitutional Council. This change aligns with developments in the legislative and legal fields, particularly with regard to constitutional oversight. To this end, the constitutional founder defined the composition of the Constitutional Court in a way that distinguishes it from other institutions in various countries. It was endowed with specific membership criteria and conditions for the President of the Constitutional Court. Furthermore, provisions were established to ensure the organic and functional independence of all members of the Constitutional Court, as well as the court as a whole. These provisions are intended to achieve the required effectiveness in the field of constitutional oversight.*

**Keywords:** *Constitutional Council, Constitutional Court, Immunity, Constitutional Oversight*

## INTRODUCTION:

The supremacy of the constitution is a fundamental principle in democratic countries, whether they are monarchies or republics. For a democratic constitutional system to be valid, it is said that there must be higher rules that the governing body must respect in all its actions. This recognises the principle of legality and the hierarchy of legal norms. Constitutional systems recognise the importance of having an oversight body to ensure the legality of laws enacted by the legislature. Some systems, such as the French, Moroccan and Algerian constitutional systems, have entrusted this oversight to a specialised body that reviews laws before they are enacted. These systems established a Constitutional Council to examine the legality of laws before their issuance.

Consequently, like the constitutional founders of other countries that adopt the principle of constitutional supremacy, the Algerian constitutional founder established a body to oversee the constitutionality of laws, assigning this role to the Constitutional Council. This was influenced by the French model, which relies on political oversight. Since its establishment, the Algerian Constitutional Council has undergone numerous developments to improve its performance, from the first constitution in 1963 to the recent constitutional amendment in 2020, marking a qualitative leap in the oversight of constitutionality. A new oversight institution was created and referred to in Article 185 of the constitutional text, which states that the Constitutional Court is an independent institution responsible for ensuring respect for the constitution and overseeing the functioning of institutions and public authorities.

Notably, this amendment introduced several changes, particularly with regard to the composition of the Constitutional Court and the membership criteria for the President of the Court and its other members. The Constitutional Court was established instead of the Constitutional Council because the latter focused on the principle of objective oversight regarding the conformity of agreements, laws, and regulations with the constitution. However, notifications directed to the Council in this regard were very few and far between, with some notification bodies failing to exercise their rights. Additionally, the introduction of a mechanism allowing parties involved in a case or dispute before the judiciary to raise issues of unconstitutionality necessitated the establishment of a judicial body to oversee the constitutionality of laws and adjudicate on them.

The importance of studying the topic of the Constitutional Court lies in its establishment as a new institution that replaced the Constitutional Council. Despite various amendments to the Council through every

constitution or constitutional amendment, it has proven ineffective since independence. While the constitutions of different countries vary in their definition of the body responsible for overseeing the constitutionality of laws, they all agree on the necessity of implementing this oversight to ensure the constitutionality of laws. Since independence, the Algerian constitutional founders have moved in this direction, first adopting the Constitutional Council and then the Constitutional Court in the recent constitutional amendment of 2020. This leads us to pose the following question: To what extent did the constitutional founder succeed in establishing the Constitutional Court through a different composition in the 2020 constitutional amendment, or is it merely a replication?

The nature of this topic requires us to primarily use descriptive and comparative analytical methods. This involves presenting constitutional texts addressing the composition of the Constitutional Court and the conditions for membership. These texts are then analysed to identify key similarities between the composition of the Constitutional Court and oversight institutions in other countries. The research also examines the extent to which mechanisms for organic and functional independence are provided.

To address this issue, the research is divided into two sections. The first section discusses the specific composition of the Constitutional Court. The second section addresses the independence of its members according to the 2020 constitutional amendment.

## **SECTION ONE: COMPOSITION OF THE CONSTITUTIONAL COURT**

Through the constitutional amendment approved in the referendum on 1 November 2020, the Algerian constitutional founder established the Constitutional Court as an alternative name for the Constitutional Council. This reflects a desire to align with the general trend adopted by many countries worldwide, including Morocco under its 2011 Constitution and Tunisia under its 2014 Constitution. The constitutional founder recognised the vital importance of constitutional justice in establishing a democratic legal state, which is why they assigned constitutional oversight to a constitutional institution with its own specific composition.

In this section, we will first discuss the methods of selecting members of the Constitutional Court and then address the conditions required of them.

### **Subsection One: Methods of selecting members of the Constitutional Court**

The Constitutional Court retains some characteristics of the Constitutional Council, particularly with regard to the number of members. The Constitutional Court will have twelve members, as did the Constitutional Council. Additionally, unlike the legislative branch, representation from the executive and judicial branches is included in this amendment. Six members are appointed and a new electoral system has been introduced which did not exist during the Constitutional Council era.

We will therefore first discuss the members representing the executive branch in the first subsection, then the members representing the judicial branch in the second, and finally the electoral body in the third.

### **Section 1: Members representing the Executive Branch**

The composition of the Constitutional Court is a key reference point when carrying out its functions and responsibilities. This refers to the constitutional texts concerning the formation of this institution, consisting of the President of the Court and its members. According to Article 186 of the 2020<sup>1</sup> constitutional amendment, the Constitutional Court comprises twelve members, maintaining the same number established in the Constitutional Council through the 2016 constitutional amendment, as per Article 183<sup>2</sup>.

Four of the members represent the executive branch and are appointed by the President of the Republic, one of whom is the President of the Constitutional Court. By way of comparison, the U.S. Supreme Court consists of nine justices, including the Chief Justice, who serves as head of the court, along with eight other justices

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<sup>1</sup>- Presidential Decree No. 20/442 dated December 30, 2020, concerning the issuance of the constitutional amendment approved in the referendum of November 1, 2020, in the Official Gazette of the People's Democratic Republic of Algeria, No. 82, dated December 30, 2020.

<sup>2</sup>- Law No. 16-01 dated March 6, 2016, concerning the constitutional amendment, Official Gazette No. 14, dated March 7, 2016.

who serve for as long as they are in good health and behave appropriately. They are appointed by the President after obtaining the Senate's approval, which is a necessary condition rather than a mere procedural step<sup>3</sup>.

The 2012 Constitution was the first in Egypt to specify the composition of the Supreme Constitutional Court in a constitutional text. Article 176 states that 'the Supreme Constitutional Court is composed of a President and ten members', and the law specifies the judicial or other bodies that nominate them and the method of their appointment. However, this specification was later revoked under the 2014 Constitution, which states in Article 194 that the Court comprises a President and a sufficient number of department heads and advisors. The general assembly selects the President of the Court from among the three most senior vice presidents<sup>4</sup>.

Here, it is noted that the founder of the Algerian constitution should have made the number of members of the Constitutional Court odd, thereby allowing the President to play a decisive role in the event of a vote tie among the other members.

It is noted here that the Algerian constitutional founder should have ensured that the number of members of the Constitutional Court was odd, thereby enabling the President to play a decisive role in the event of a vote tie among the other members. Furthermore, to ensure the court and its members are truly independent, it would have been more appropriate to elect the President of the Constitutional Court by all members. This would enable them to perform their duties freely and with credibility.

### **Subsection Two: Members Representing the Judicial Branch**

Constitutional oversight of laws involves examining whether a law contradicts the Constitution, with the aim of ensuring respect for its provisions in the event of a violation. This can be achieved by either refraining from enacting the law if it has not yet been issued, or by not applying or nullifying it if it has been enacted. This oversight is conducted by a constitutional institution called the Constitutional Court. In addition to members from the executive branch, the Constitutional Court also includes members from the judicial branch in order to achieve balance.

A recent constitutional amendment stipulates that the judicial authority is represented by two members, one each from the Supreme Court and the Council of State. Notably, the constitutional founder reduced the number of members representing the judicial branch in the Constitutional Court by half compared to their representation in the Constitutional Council. This reveals the founder's concern over the growing role of judges in overseeing the constitutionality of laws, particularly in light of the severe criticism that the US Supreme Court has faced<sup>5</sup>. Consequently, judges from the Supreme Court and the Council of State now elect one member each instead of the four members previously in place under the 2016 constitutional amendment<sup>6</sup>.

The Algerian Constitutional Court also aligns with the structure of the Supreme Constitutional Court in Egypt in that both include members from the Supreme Court and current or former judicial bodies who have served as advisors or equivalents for at least five continuous years<sup>7</sup>. Having judges is important because of their expertise in procedural aspects, given their training and knowledge relevant to the tasks associated with constitutional disputes, especially given the shift towards a court system<sup>8</sup>.

### **Subsection Three: Members Representing the Electoral Body**

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<sup>3</sup>- Toufik Ramadan Rawandzi, *The Role of the Federal Supreme Court in Controlling the Constitutionality of Laws: A Comparative Study*, 1st ed., Al-Wafa Legal Library, Alexandria, 2016, p. 109.

<sup>4</sup>- Toufik Ramadan Rawandzi, *Ibid.*, p. 119.

<sup>5</sup>- Medani Abdelkader, Salmi Abdel Salam, "The Shift to Judicial Oversight via the Constitutional Court in the 2020 Constitutional Amendment," *Journal of Legal and Economic Research*, Vol. 4, No. 2, 2021, p. 225.

<sup>6</sup>- Law No. 16/01 concerning the constitutional amendment of 2016.

<sup>7</sup>- Noaman Ahmad al-Khatib, *The Mediator in Political Systems and Constitutional Law*, 1st ed., Dar Al-Thaqafa for Publishing and Distribution, Amman, 2009, p. 560.

<sup>8</sup>- Jemam Aziz, "The Ineffectiveness of Oversight on the Constitutionality of Laws in Algeria," Master's thesis in Public Law, Faculty of Law and Political Science, MouloudMammeri University of TiziOuzou, Algeria.

One of the most significant additions made by the 2020 constitutional amendment was the inclusion of law professors in the composition of the Constitutional Court. This aligns with practices in many countries, such as Egypt's Supreme Constitutional Court and Iraq's Federal Supreme Court, which include not only judges, but also experts in Islamic jurisprudence and legal scholars. The number of these members and their selection method are defined by a law enacted by a two-thirds majority of the House of Representatives<sup>9</sup>.

In Algeria, Article 186, paragraph 3, specifies that six members shall be university professors, elected by popular vote from among constitutional law professors. Article 9 of Presidential Decree No. 21-304 sets out the conditions and procedures for electing constitutional law professors to the Constitutional Court<sup>10</sup>. It states that any professor meeting the legal conditions specified below may stand for election. These include being at least 50 years old on election day; having at least 20 years' legal experience; having served as a constitutional law professor for at least five years; enjoying civil and political rights; not having been sentenced to imprisonment for a crime; and not having been affiliated with a political party for at least three years prior.

Furthermore, Article 10 of the aforementioned decree specifies the components<sup>11</sup> of the application file that must accompany the declaration of candidacy submitted personally by the candidate to their university institution. It is also worth noting that the constitutional founder did not grant legislative authorities membership of the Constitutional Court, raising questions about the exclusion of parliament, which represents the general will.

## **SECTION TWO: CONDITIONS REQUIRED FOR MEMBERS OF THE CONSTITUTIONAL COURT**

The significance and seriousness of the constitutional issues brought before the Constitutional Court mean that its rulings and decisions must be made by a quorum of members<sup>12</sup>. Article 187 of the 2020 constitutional amendment therefore specifies the conditions that members of the Constitutional Court must meet, as detailed in the first subsection. The second subsection will address the specific conditions for the President of the Constitutional Court.

### **Subsection One: Conditions Related to Appointed or Elected Members**

Article 187 of the constitutional amendment outlines exhaustive conditions that must be met.

#### **First: Attaining the legal age**

A member must be at least fifty (50) years old on the day of election or appointment. This condition also applies to the election of one member from each judicial body to the Supreme Court and the Council of State. The same requirement applies to law professors, with age being determined by the date of election or appointment. By contrast, the Egyptian Supreme Constitutional Court requires a member to be at least forty-five years old, in accordance with the provisions of the Judicial Authority Law<sup>13</sup>.

#### **Second: required professional experience in the field of law**

In addition to the age requirement, Article 187 of the 2020<sup>14</sup> constitutional amendment stipulates that individuals must have at least 20 years' experience in the field of law, as well as training in constitutional law. Individuals without this experience cannot be appointed or elected. However, the constitutional text does not specify how such extensive legal experience can be acquired – whether through university teaching or by practising a legal profession. This approach aligns with the Egyptian constitutional framework, which

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<sup>9</sup>- Inas Mohamed Al-Bahji, Yusuf Al-Masri, *Control over the Constitutionality of Laws: A Comparative Study*, 1st ed., National Center for Legal Publications, Cairo, 2013, p. 214.

<sup>10</sup>- Presidential Decree No. 21-304 dated 25 Dhu al-Hijjah 1442, corresponding to August 4, 2021, specifying the conditions and methods for electing constitutional law professors as members of the Constitutional Court, Official Gazette of the People's Democratic Republic of Algeria, No. 60.

<sup>11</sup>- Article 10 of Presidential Decree No. 21-304, which specifies the conditions and methods for electing constitutional law professors as members of the Constitutional Court.

<sup>12</sup>- Abdelghani Yessouni Abdullah, *The Mediator in Political Systems and Constitutional Law*, printed at Al-Saadani Press, Alexandria, 2004, p. 828.

<sup>13</sup>- Noaman Ahmad al-Khatib, *The Mediator in Political Systems and Constitutional Law*, Ibid., p. 560.

<sup>14</sup>- Article 187 of Presidential Decree No. 20/442 concerning the issuance of the constitutional amendment of 2020.

requires members to be seasoned legal professionals with in-depth legal expertise, as well as meeting the general conditions necessary for holding judicial office<sup>15</sup>.

### **Third: education and specialisation in constitutional law.**

In addition to having at least 20 years of legal experience, the constitutional founder required that members of the Constitutional Court undergo training in constitutional law. This is emphasised in paragraph 2 of Article 187 of the 2020<sup>16</sup> constitutional amendment. This condition primarily applies to members who are not constitutional law professors, focusing on judges and members appointed by the President of the Republic outside of constitutional law professors. Article 9 of Presidential Decree No. 21-304<sup>17</sup> details the candidacy conditions, which include having been a constitutional law professor for at least five years and having made scientific contributions in this field.

In comparative legislation, members of the Egyptian Supreme Constitutional Court, for instance, are required to meet the general conditions necessary for holding judicial office, as per the provisions of the Judicial Authority Law<sup>18</sup>.

### **Fourth: enjoyment of civil and political rights and no criminal convictions**

Article 9 of Presidential Decree No. 21-304 defines the conditions and methods for electing constitutional law professors as members of the Constitutional Court. It stipulates that members of the Constitutional Court must enjoy all their civil and political rights and must not be disqualified due to convictions for serious crimes.

### **Fifth: non-party affiliation**

The recent constitutional amendment added conditions to Article 187, as emphasised in the final paragraph of Article 9 of Presidential Decree No. 21-304. This stipulates that members must not have been affiliated with a political party for at least three years prior to their election. This requirement aims to protect the independence of Constitutional Court members from potential risks associated with political conflicts<sup>19</sup>.

### **Subsection Two: Special Conditions for the President of the Constitutional Court**

Article 87 of the 2020 constitutional amendment outlines the conditions that candidates for the presidency must meet, and these same conditions are reaffirmed for the President of the Constitutional Court in Article 188 of the 2020 constitutional amendment, with the exception of the age requirement.

The constitutional founder attributed great importance to the President of the Constitutional Court because he is considered the third-ranking official in the state and is capable of succeeding the President of the Republic if a vacancy coincides with a vacancy in the office of the President of the Senate. Therefore, the constitutional founder emphasised the necessity of applying the same conditions as those that apply to the President of the Republic. Additionally, the President of the Constitutional Court has advisory powers that they can provide to the President if requested, as stipulated by the constitution<sup>20</sup>. Many countries, including Egypt, have adopted this approach; Article 84 of the Egyptian Constitution addresses the situation of a presidential vacancy or the permanent incapacity of the President to perform their duties. In such cases, the presidency is temporarily assumed by the Speaker of the House of Representatives. If the House is dissolved,

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<sup>15</sup>- Hamdi Al-Ajmi, *Introduction to Constitutional Law in Light of Contemporary Arab Constitutions*, Dar Al-Thaqafa for Publishing and Distribution, Amman, 2009, p. 133.

<sup>16</sup>- Paragraph 2 of Article 187 of Presidential Decree No. 20/442 concerning the issuance of the constitutional amendment of 2020.

<sup>17</sup>- Article 9 of Presidential Decree No. 21-304, which specifies the conditions and methods for electing constitutional law professors as members of the Constitutional Court.

<sup>18</sup>- Abd Al-Monim Al-Dawi, *Arab Constitutions between Creation, Amendment, and Oversight*, 1st ed., Al-Wafa Legal Library, Alexandria, 2016, p. 392.

<sup>19</sup>- Medani Abdelkader, Salmi Abdel Salam, *Ibid.*, p. 228.

<sup>20</sup>- GharebiAhsen, "A Review of the Composition of the Constitutional Court in Light of the 2020 Constitutional Amendment," *Journal of Legal and Social Sciences*, Vol. 5, No. 4, December 2020, p. 573.

the presidency is taken over by the President of the Supreme Constitutional Court, provided neither is nominated for the presidency.

## **Section Two: Independence of Members of the Constitutional Court**

Having discussed the composition of the Constitutional Court and the membership conditions for the President and its members, we will now examine the provisions guaranteed by the constitutional founder to ensure these members' independence. These will be compared with the systems adopted by many other countries. First, we will address the provisions related to tenure, followed by the specific membership provisions for all members.

### **Subsection One: Tenure Provisions at the Constitutional Court**

The independence of members of the Constitutional Court requires the fulfilment of conditions primarily relating to the length of a member's term on the Court and the system of non-accumulation of positions. The term of office for members of the Constitutional Court varies depending on whether they are the President of the Constitutional Court or another member<sup>21</sup>. The President serves a full six-year term, while half of the other members are renewed every three years<sup>22</sup>. This differs from the previous structure of the Constitutional Council, in which both the President and Vice-President, who were appointed by the President of the Republic, served full terms while the remaining members were renewed every four years<sup>23</sup>.

According to Egyptian legislation, at least two-thirds of the members of the Supreme Constitutional Court must come from judicial bodies, as stipulated in Article 5 of the Law on the Supreme Constitutional Court<sup>24</sup>. This condition ensures the judicial character of the court and provides it with the expertise and experience of its members.

The Jordanian Constitution states that the Constitutional Court of Jordan is an independent judicial body consisting of at least nine members, including the President, who serve for six years and cannot be re-elected<sup>25</sup>. A similar situation exists in Algeria, where the President of the Constitutional Court serves only one term and the other members serve for six years.

Notably, the President of the Constitutional Court, who is appointed by the President of the Republic, must meet the aforementioned candidacy conditions for the presidency, as outlined in Article 87 of the 2020 constitutional amendment, except for the age requirement. This is because, in the event of a vacancy in the presidency coinciding with the incapacity of the President of the Senate, the President of the Constitutional Court may assume the role of Head of State, as indicated in Article 94 of the 2020 constitutional amendment. This situation was not detailed in the previous constitutional amendment regarding the tenure of the Constitutional Council.

It should also be noted that the partial renewal of half of the Constitutional Court's members and the manner in which this renewal is conducted will be clarified by the Constitutional Court's internal regulations, which will be prepared and approved accordingly<sup>26</sup>.

### **Subsection Two: Membership Provisions of the Constitutional Court**

In order to enable members of the Constitutional Court to perform their duties, the Algerian constitutional founder granted them immunity, enabling them to carry out their functions independently and without abusing their position. This will be discussed in the first subsection, after which the necessity of not

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<sup>21</sup>- Medhat Ahmad Mohamed Youssef Ghnam, *Modern Trends in Oversight of the Constitutionality of Laws in Latin Systems* (Egypt and France), 1st ed., National Center for Legal Publications, Cairo, 2014, p. 40.

<sup>22</sup>- Paragraph 3 of Article 187 of Presidential Decree No. 20/442 concerning the issuance of the constitutional amendment of 2020.

<sup>23</sup>- Article 188 of Presidential Decree No. 20/442 concerning the issuance of the constitutional amendment of 2020.

<sup>24</sup>- Abdelghani Yessouni Abdullah, *The Mediator in Political Systems and Constitutional Law*, printed at Al-Saadani Press, Alexandria, 2004, p. 831.

<sup>25</sup>- Noaman Ahmad al-Khatib, *The Simple Guide to the Constitutional System*, Dar Al-Thaqafa for Publishing and Distribution, 1st ed., Amman, 2014, p. 294.

<sup>26</sup>- Article 94 of Presidential Decree No. 20/442 concerning the issuance of the constitutional amendment of 2020.

combining the role of a Constitutional Court member with any other position will be addressed in the second subsection.

### **Subsection One: Immunity of Constitutional Court Members**

Members of the Constitutional Court are granted immunity regarding actions related to the performance of their duties. Therefore, they cannot be subject to judicial prosecution without the permission of the Constitutional Court or an explicit waiver from the member in question<sup>27</sup>. The procedures for lifting the immunity of a Constitutional Court member are determined by the court's internal regulations.

Immunity appears to be granted to the position rather than the individual. This allows members of the Constitutional Court to perform their constitutional duties freely, confidently and independently, but does not exempt them from legal responsibility<sup>28</sup>.

The same principle is affirmed in the Egyptian Constitution for members of the Supreme Constitutional Court, who cannot be dismissed or transferred to other positions without their consent. Their guarantees, rights, duties, retirement, leave and disputes relating to promotions are also protected. In terms of financial benefits, members retain their salaries and allowances at the higher rate received prior to their appointment to the Constitutional Court, ensuring that they do not suffer financially as a result<sup>29</sup>.

### **Subsection Two: Conflict of Interest**

The 2020 constitutional amendment reaffirms the necessity of granting members of the Constitutional Court complete independence when performing their duties. Similar to previous Algerian constitutions that adopted the system of the Constitutional Council, it emphasises the importance of respecting the principle of incompatibility between membership of the Constitutional Court and any other position, assignment, task, commercial activity or profession. This aims to ensure the credibility, independence and neutrality of the constitutional judge, who plays a critical and pivotal role requiring impartiality.

This was confirmed by the constitutional founder of Algeria through the 2020 constitutional amendment, particularly in the last paragraph of Article 187, which states: 'Upon their election or appointment, members of the Constitutional Court shall cease to perform any other membership, position, assignment, task or activity.<sup>30</sup> The same principle applies to the Egyptian Supreme Constitutional Court, whose regulations stipulate that members cannot be seconded or loaned out for anything other than legal work or scientific tasks. This ensures that they are not influenced by outside factors and can fully dedicate themselves to their oversight responsibilities<sup>31</sup>.

## **CONCLUSION:**

The 2020 constitutional amendment met the expectations of all segments of the population, who had high hopes for the protection of rights and freedoms, as well as various political demands. One of the most important changes was the transition from the Constitutional Council, which had proven ineffective and unsuccessful, particularly with regard to the limited notifications directed to it, and its effectiveness in constitutional oversight – especially after the introduction of a new mechanism for challenging constitutionality in the 2016 constitutional amendment. Thus, this constitutional amendment encompassed nearly all sections and chapters, particularly those related to oversight institutions.

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<sup>27</sup>- Last paragraph of Article 189 of Presidential Decree No. 20/442 concerning the issuance of the constitutional amendment of 2020.

<sup>28</sup>- Abd Al-Monim Al-Dawi, *Arab Constitutions between Creation, Amendment, and Oversight*, 1st ed., Al-Wafa Legal Library, Alexandria, 2016, p. 394.

<sup>29</sup>- Medhat Ahmad Mohamed Youssef Ghnaim, *Modern Trends in Oversight of the Constitutionality of Laws in Latin Systems (Egypt and France)*, 1st ed., National Center for Legal Publications, Cairo, 2014, p. 47.

<sup>30</sup>- Last paragraph of Article 187 of Presidential Decree No. 20/442 concerning the issuance of the constitutional amendment of 2020.

<sup>31</sup>- Abd Al-Aziz Mohamed Salman, *Controls and Constraints of Constitutional Oversight: The Method of the Supreme Constitutional Court in Oversight of the Constitutionality of Laws and Regulations*, 1st ed., Saad Samak for Legal Publications, 2011, p. 54.

The constitutional texts aimed to develop and renew the composition of the Constitutional Court by diversifying its membership and establishing an electoral body primarily comprising experienced legal professionals. The constitutional founder also stipulated that members should specialise in and be trained in constitutional law to ensure they could perform their duties professionally and effectively. This composition reflects the constitutional founder's alignment with comparative legislation, whether American or Egyptian, by diversifying membership and providing guarantees of neutrality and independence, as set out in various constitutional articles.

The guarantees established in the articles regarding immunity and non-dismissal enable members to fulfil their roles effectively. This is similar to the situation in many other countries that have institutionalised such guarantees to varying degrees in order to achieve the necessary independence for members to fulfil their roles.

The following points highlight several conclusions that can be drawn from the above discussion:

- The establishment of the Constitutional Court in Algeria, replacing the Constitutional Council, was a result of the latter's failure to perform its duties, particularly regarding constitutional oversight, and was also in line with global trends toward constitutional oversight through a constitutional court.
- The 2020 constitutional amendment included the creation of the Constitutional Court and recognized it as an independent institution exclusively responsible for determining the constitutionality of laws. It also issued a special law outlining the conditions and methods for electing constitutional law professors as members of the Constitutional Court, with the expectation of issuing a specific law to regulate the court's operational rules soon.

However, despite these reforms and amendments brought by the 2020 constitutional amendment, there remains a degree of interference in the powers of the Constitutional Court, particularly regarding the appointment of its president and three other members by the President of the Republic, along with several negative points noted in this regard. Therefore, a number of recommendations can be summarized as follows:

Adopt an electoral method for selecting the President of the Constitutional Court, rather than limiting it to appointment by the President of the Republic, as this diminishes the court's independence.

- Ensure that the two members representing the people in the Constitutional Court are elected by Parliament, alongside two members appointed by the President of the Republic and two members appointed by the judiciary, thus achieving numerical balance among the three branches of government.

It is essential to stipulate that the Constitutional Court must provide reasoning for its decisions and include this in the regulations governing its operations, in order to enhance transparency.

- Update laws directly related to the operation of the Constitutional Court, such as the Civil and Administrative Procedures Law and the Criminal Procedure Law.

Strengthen the independence of the Constitutional Court as a judicial body, rather than merely an oversight body. This is particularly important with regard to organic independence, which guarantees its effectiveness in upholding constitutional supremacy and overseeing the constitutionality of laws.

- Reduce the number of members appointed by the President of the Republic to two, while granting Parliament the right to elect two additional members to ensure equal representation of the three branches of government within the Constitutional Court.

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