

The Legal Provisions Regulating the Jurisdiction of the Constitutional Court under the Provisions of Article 190 of the 2020 Constitutional Amendment

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Abstract: In the 2020 Constitutional Amendment, the Algerian Constitutional founder approved the establishment of an independent judicial institution called the Constitutional Court, contrary to what was the situation in the 2016 Constitution, that is, the Constitutional Council, which was entrusted with the task of monitoring the constitutionality of laws and ensuring respect for the Constitution and its supremacy over the rest of the legal rules, and this is done by activating the notification mechanism. Which plays an important role in all types of constitutional oversight, as the Constitutional Court decides by decision on monitoring conformity and constitutionality and finally the mechanism for defending unconstitutionality.

Keywords: Oversight, Constitutional Court, Constitutionality of Laws, Notice.

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Introduction:

The amended Algerian Constitution for the year 2020¹ organized in the first section of the fourth chapter the Constitutional Court, considering it an independent constitutional supervisory institution established to ensure respect for the constitution, the constitutionality of treaties, agreements, and laws. In other words, it can be said that it was established to exercise oversight over the constitutionality of laws, considering that the constitution is the supreme law as it prevails over all laws issued in the state, and the legislator is not allowed to enact any law that contradicts it.

The Constitutional Court was established in Algeria to replace the Constitutional Council, which was considered an independent constitutional body exercising political oversight over the constitutionality of laws, following the French model. Subsequently, with the establishment of the Constitutional Court, we are faced with judicial oversight over the constitutionality of laws, as this method of oversight has gained great popularity in many countries due to its alignment with the concept of oversight itself and with the judge's expertise.

It is undeniable that assigning the task of investigating the conformity of laws that violate the constitution to the judiciary achieves numerous advantages that were not available when a political body was responsible for this task.

In addition to the other powers granted to this Constitutional Court by other provisions in the constitution, it is entrusted with reviewing the constitutionality of laws in all their forms: conformity oversight, constitutionality oversight, oversight of the conformity of laws and regulations with treaties, and finally, the power to declare unconstitutionality. It should be noted that without activating oversight over the constitutionality of laws by the designated authorities in Articles 193-195 of the 2020 constitutional amendment, which have notification powers, the constitution cannot be protected from violations by the parliament and the executive authority.

Therefore, this study addresses the topic of conformity oversight, constitutionality, and the constitutionality of the Constitutional Court's jurisdiction to ensure the protection of constitutionality, in addition to guaranteeing rights and freedoms. Based on the above data, the problem of our study can be formulated as follows:

* What are the powers entrusted to the Constitutional Court according to Article 190 of the 2020 constitutional amendment?

¹-Presidential Decree No. 20-442, dated December 30, 2020, concerning the issuance of the constitutional amendment, Official Gazette No. 82, issued on December 30, 2020.

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To answer the posed problem, we followed the appropriate descriptive-analytical method for this study by presenting the concepts related to the subject and analyzing the constitutional texts, in addition to the comparative method whenever necessary.

For that reason, we decided to divide the article into three sections. The first section addresses conformity oversight, the second focuses on constitutionality oversight, while the third is dedicated to verifying the conformity of laws and regulations with treaties.

I. TITLE 1 : Conformity Oversight

Conformity oversight is the strictest and most comprehensive type of oversight as it extends to the text or the law in its entirety, both formally and substantively.

First Subtitle: Definition of Conformity Oversight

Conformity oversight mandates strict adherence, both formally and substantively, to the provisions of constitutional texts, making it a precise and stringent form of oversight².

The term "conformity" implies precise adherence of the law to the constitution, both in text and spirit. The relationship of subordination between these constitutional and legislative norms in this context is closely compared to situations requiring alignment between them. Therefore, oversight in this case goes beyond mere alignment between the law and the constitution to assess precise conformity with the constitutional text, and thus the law should not contradict the provisions of the constitution.

We find that the Constitutional Court exercises its oversight over the conformity of organic laws and the internal regulations of parliamentary chambers by investigating the literal conformity of these texts with the constitution. This oversight is a compulsory requirement before the enactment of laws, sought to ensure their constitutionality after they are approved by the parliament and before they are issued by the president. This is done through obligatory notification by the president, referred to as the individual right of the president, as this right can only be exercised by the president and cannot be delegated.

Second Subtitle: Oversight of Conformity of Organic Laws to the Constitution

The Constitutional Court is tasked with imposing conformity oversight on organic laws with the constitution before their issuance through compulsory prior oversight, according to Article 190, paragraph five, of the 2020 constitutional amendment, which grants the president the authority to compulsorily notify the Constitutional Court regarding the conformity of organic laws with the constitution after approval by the parliament, it is up to the Constitutional Court to decide on the entirety of this provision.

²- Saeed Bouchair, the Constitutional Council in Algeria, University Press Collection, Algeria, 2012, pp. 67-69.

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It can be inferred from the text of Article 190 that the constitutional conformity oversight of organic laws cannot be initiated except by the president alone. Therefore, it is a constitutional obligation on the president's part. This passage discusses the process of constitutional review in a legal context, particularly focusing on the role of the Constitutional Court in ensuring the conformity of organic laws with the constitution. It highlights the necessity of notifying the Constitutional Court before the issuance of organic laws, as mandated by Article 140 the last paragraph of the constitutional amendment of 2020.

It must be noted that the text that is subject to conformity control is decided upon in its entirety and not on some articles by saying, "The Constitutional Court shall decide by decision on the entire text." the fact that the topics of the organic laws are exclusively specified in the text of the Constitution, which means that these organic laws must not be issued outside the areas specified in the text. The Constitution. Moreover, the provisions of organic laws are considered complementary texts to the Constitution as they deal with topics related to the organization of authorities, political life, the contrary to what was stated in the financial system and national security, contrary to what was introduced in the text of Article 186 paragraph two in 2016 Constitutional Amendment which, we find does not provide any detail regarding Conformity control for the entire text.

The disagreement also appears in the dismissal procedure, as in the constitutional amendment of 2020 and in accordance with the text of Article 190, paragraph five. The Constitutional Court issues a decision regarding that we are facing judicial oversight, while when we return to the text of Article 186, the of the 2016 constitutional amendment, we find that it stipulates that the Constitutional Council expresses its opinion on the constitutionality of organic laws and thus political oversight. So what can be said is that we were under political oversight and now we are under judicial oversight after the last Constitutional amendment of 2020.

If the court finds that all the provisions of the law subject to notification are in accordance with the constitution, the law is issued. However, if the organic law referred to the Constitutional Court contains one or more provisions that are not in line with the constitution and these provisions cannot be separated from the rest of the provisions of this organic law referred to it, then the text is entirely returned to the notifying authority, and this law is not issued.³

Therefore, if the organic law presented before the constitution the and the Court conformity with the Constitutional court includes a provision or several provisions that are not in conformity with the Constitution and the court decides that these provisions that are not in conformity with the constitution can be separated from the rest of the provisions of this

³- Article 7, first paragraph, of the specified system for the functioning rules of the Constitutional Court, dated January 22, 2023, Official Gazette N°. 4, issued on January 22, 2023. p. 6.

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Organic Law, then this organic law can be issued by the President of the Republic with the exception of provisions that violate the Constitution⁴.

By extrapolating this article, it becomes clear to us that an organic law cannot be issued if it includes provisions or several provisions that are not in conformity with the constitution, and that these provisions cannot be separated from the rest of the provisions of the organic law submitted for conformity, so that the text is returned to the National People's Assembly for the purpose of notifying authority and to the amending it in accordance with the decision. The Constitutional Court must be referred to the Constitutional Court again to carry out conformity control.

As an exception, the President of the Republic can issue an organic law which includes one or more provisions that are contrary to the constitution from the rest of the provisions of the organic law.

Second Subtitle: Monitoring the conformity of the internal regulations of the two chambers of Parliament with the constitution

The bylaws of each of the two chambers of Parliament mean those rules relating to the operating system of the two chambers of Parliament. Monitoring the two chambers of Parliament is compliance with the bylaws of each of considered obligatory since the bylaws of the two chambers of Parliament Every determine the procedures related to the organization and management of room.

Article 190 paragraph six, of the 2020 Constitutional Amendment stipulates, that « the Constitutional Court shall decide whether the internal regulations of each of the two chambers of Parliament conform to the Constitution according to the procedures mentioned in the previous paragraph ».

By extrapolating the above mentioned article, it becomes clear to us that - the internal regulations of the two chambers of Parliament are subject to the control of mandatory constitutional conformity, just like organic law, through the same procedures that organic law goes through mandatory notification by the President of the Republic. In other words, the President of the Republic is the only constitutional body authorized to Constitutionally, the right to notify the Constitutional Court regarding the conformity control that is focused on the internal regulations of the two chambers of Parliament.

Returning to the 1989 Constitution, we find that the constitutional founder did not subject the internal regulations of the National Assembly chamber to, stipulates second paragraph conformity control, as we find that Article 155, that the Constitutional Council shall decide on the conformity of the internal regulations of the National People's Assembly to the constitution, and he did not specify a specific body for notification, in addition to

⁴- Article 7, paragraph two, of the specific system of rules governing the work of the Constitutional Court, op. cit, p. 6.

Failure to approve the obligation to submit the text related to the internal regulations of the Chamber of the National People's Assembly to the Constitutional Compliance Supervision.

However, after the issuance of the 1996 Constitution, it was explicitly stated in Article 165 paragraph three, that the Constitutional Council shall decide on the conformity of the internal regulations of each of the two chambers of Parliament to the Constitution and after the President of the Republic notifies him so that he must express his opinion, which is what he maintained even under the Constitutional Amendment of 2020 except with regard to the procedure The dismissal that became by decision because we are before a constitutional court and the court decides by decision.

If the Constitutional Court, when deciding on the conformity of the bylaws of each of the two chambers of Parliament to the Constitution, finds that this bylaw includes one or more provisions that are not in conformity with the constitution and cannot be separated from the rest of the provisions of this bylaws, the text shall be returned to the notified body. Every amendment to the bylaws of each of the two chambers of Parliament submitted to the Constitutional Court to monitor its conformity with the Constitution⁵.

TITLE 2 : Constitutional oversight

Constitutional oversight aims to preserve the Constitution and protect it from deviating from its provisions, as it is the supreme and basic law in the state that establishes the principles and rules upon which the state's system of government, rights and freedoms are based. The Constitutional Court is also competent to consider the constitutionality of treaties, laws, orders and regulations⁶, and it is called optional tribal oversight or Passport.

Constitutional oversight is considered less strict and comprehensive than conformity oversight and relates to the provisions or articles subject to notification as a general principle from the objective standpoint only and does not extend to the formal aspect of the law. The Constitutional Council (currently the Constitutional Court) does not look into the procedures for preparing and approving the law in constitutional oversight. Rather, the Constitutional Council (Constitutional Court) is focused on studying the article or legislative provision contained in the notification, and the Council's (Court) oversight does not extend to other articles of the text⁷.

Monitoring the constitutionality of laws also means not violating the Constitution by subjecting the lower legal rule to the higher rule. This is done by comparing the lower text

⁵- Article 8 of the specified system of rules governing the work of the Constitutional Court, op. cit, p. 6.

⁶- Gharbi Ahsan, « Oversight of the Constitutionality of Laws in Light of the Constitutional Amendment of 2020 », Journal of Rights and Humanities, Volume 13, Issue 04, 2020, p. 26.

⁷- Boumediene Mohamed, « Objective criteria to distinguish between conformity oversight, constitutionality oversight, and oversight of the defense of unconstitutionality in accordance with the 2016 constitutional amendment », Journal of Constitutional Law and Political Institutions, Volume 4, Issue 1, June 2020, p. 18.

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with the constitutional text to determine the extent of the lower text's constitutionality and its conformity with the Constitution⁸.

Accordingly, the Constitutional Amendment of 2020 stipulated the scope of optional permissible constitutional oversight in Article 190 the first paragraph, stating that «...the Constitutional Court shall decide by decision on paragraph and regulations .. »⁹, and Article 3 of the constitutionality of treaties, laws system specifying the rules of work of the Constitutional Court stipulated that The Constitutional Court shall be notified by the authorities « specified in Article of the Constitution, as the case may be, regarding the constitutionality of 193 treaties, conventions, agreements, laws, orders, regulations and compatibility with treaties ».

First Subtitle: Monitoring the constitutionality of treaties

Article 190 the first paragraph of the 2020 Constitutional Amendment, stipulates that «...the Constitutional Court shall decide by decision on the constitutionality of treaties...» and the second paragraph of the same article stipulates that Constitutional Court may be notified regarding the « constitutionality of treaties before ratifying them ... ».

By extrapolating the above mentioned article, it becomes clear to us that the oversight exercised by the Constitutional Court over treaties and agreements is an optional, prior, permissible oversight and is called prior oversight, that is, before ratifying them, through the phrase “may be notified” contained in the second paragraph, which means permissibility i.e the permissibility of notification, as has become the ruling on Their constitutionality was decided by a decision, unlike the constitutional amendment of 2016, where it was decided upon by an opinion by the Constitutional Council, and therefore this constitutional oversight of treaties cannot be initiated except after their ratification, which means excluding the constitutional founder of subsequent oversight regarding these treaties and being satisfied with previous permissible oversight only.

Accordingly, the oversight exercised by the Constitutional Court in this regard is optional after the process of signing the treaty, the legal value of which becomes a draft international treaty, because only in this case can it be subjected to constitutional oversight, that is, before it enters into force, if it is referred to it by the notifying bodies stipulated in Article 193 of the Constitutional Amendment of 2020. If the court decides that it is unconstitutional, it will not be ratified by President of the Republic⁹, because it violates and conflicts with by the Constitution.

As for the armistice agreements and peace treaties, we find that the Constitutional Institution has resolved the controversy that existed regarding their subjection to mandatory

⁸- Madani Abdel Qader, Salmi Abdel Salam, « The trend toward judicial oversight by the Constitutional Court in the constitutional amendment of 2020 », Journal of Legal and Economic Research, Volume 04, Issue 02, 2021, p. 231.

⁹- Article 198, first paragraph From the Constitutional Amendment of 2020, previous source, p. 41.

supervision before the constitutional amendment of 2020, according to its text in Article 102 of the 2020 Constitutional Amendment that « The President of the Republic shall sign the armistice agreements and peace treaties ». The President of the Republic shall request opinion of the Constitutional Court regarding the agreements related to them. The President of the Republic shall immediately present these agreements to each chamber of Parliament for express approval.

Through the text of the aforementioned Article 102, we find that the Algerian constitutional founder excluded constitutional oversight of the armistice agreements and the peace treaty and restricted them to the opinion of the Constitutional Court, by requesting the President of the Republic's opinion regarding them to the opinion of the Constitutional Court. This is also confirmed by Article 94 of the system specifying the rules for the work of the constitutional court which says: "When the President of the Republic seeks the opinion of the Constitutional Court regarding the agreements related to the armistice agreements and peace treaties stipulated in Article 102 of the Constitution, the Court shall meet and express its opinion," and as soon as the President of the Republic receives the opinion of the Constitutional Court regarding them Presents it to Parliament. This does not fall within the framework of oversight of the constitutionality of treaties and agreements, because the Constitutional Founder included it within the chapter related to the authorities, specifically Chapter One, related to the President of the Republic¹⁰.

Second Subtitle: Oversight of the constitutionality of ordinary laws

Article 190 second paragraph of the 2020 Constitutional Amendment stipulates "the possibility of notifying the Constitutional Court regarding the constitutionality of laws before issuing them." Meaning that the constitutional Court decides on the constitutionality of the ordinary laws of the Constitution before they are issued under previous permissible oversight , that is, before the law is issued in the Official Gazette. This is in the event that it is notified by the authorities specified in Article 193 of the Constitutional Amendment of 2020.

In this field, the Constitutional Court is subject to the oversight of two types of laws: the regular laws stipulated in Article 139 of the Constitutional Amendment of 2020, and the law containing the constitutional amendment stipulated in Article 221 of the same Constitution. However, oversight of the constitutional amendment is mandatory prior oversight and notification there of is limited to President of the Republic.

What can also be said in this regard is that ordinary laws, if issued, are immune from oversight of the constitutionality of the laws once they are issued. However, as an exception, constitutional oversight can be exercised over the constitutionality of ordinary laws after their issuance, that is, what is called optional or post appointment oversight. If its constitutionality

¹⁰ - Dehimi Mohamed Tayeb, « Reforming the System of Oversight of the Constitutionality of Laws in Algeria », PhD, thesis, specializing in Constitutional Law, 2021-2022, p. 80.

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is claimed by the parties to the case State based on a referral from the Supreme Court or the Council of state¹¹.

Therefore, according to Article 198, second paragraph, if the Constitutional, Court decides that a law is unconstitutional, it shall not be issued.

The third subtitle: Constitutional oversight of organizations

Article 190 third paragraph, of the 2020 Constitutional Amendment, that «the Constitutional Court may be notified regarding the stipulates constitutionality of regulations within one month from the date of their publicatio »”.

The authority to regulate includes the area outside the scope of Parliament the in matters outside the scope of the law. The President of the Republic has the right to exercise regulatory authority in matters not designated by law¹². The Constitutional Founder designated the possibility of monitoring regulations in order to avoid the risks that could result from the deviation of the mandatory executive rules, because Regulatory decrees are not like presidential or delegation orders in that they are submitted for parliamentary approval. This is because they address issues outside the scope of the law¹³.

Returning to the third paragraph of Article 190 mentioned above, we find that the Constitutional Institution has designated these regulations issued by the president of the republic for constitutional oversight, which is a subsequent permissible oversight that is exercised after a period of one month from the date of their publication in the Official Gazette. These deadlines were also stipulated in Article 5 of Organic Law n° 22-19¹⁴, If the one month period expires, the notifying bodies right to exercise this control against the text shall be for feited¹⁵. This is in contrast to the French constitutional founder, who subjected only laws notregulations, to constitutional control.

However, as an exception, it is possible to argue that these regulations are unconstitutional in accordance with Article 195 of the Constitutional Amendment of 2020, through which one of the parties to the lawsuit before the judicial authorities can claim that the regulatory ruling which the outcome of the dispute depends violates his rights and freedoms guaranteed by the constitutin and here it is called optional subsequent censorship, and this is based on Contrary to what was the case in the constitutional amendment of 2016, where the procedure of defending unconstitutionality was not practiced on regulations issued by the President of the Republic.

¹¹- Article 195 of the Constitutional Amendment of 2020, previous source, p. 41.

¹²- Article 141 of the Constitutional Amendment of 2020, previous source, p. 32.

¹³- Ben Darrah Ali Ibrahim, « Development the system of control of the constitutionality of laws in Algeria -A comparative study- », LMD Doctorate in Law, specialization in the state and public institutions, Ziane Achour University of Djelfa, Faculty of Law and Political Science, Department of Law, 2018 – 2019, p. 129 .

¹⁴- Organic Law N°. 22-19, dated July 25, 2022, determining the procedures and methods of notification and referral to be followed before the Constitutional Court, Official Gazette N°. 51, dated March 31, 2022, p. 8.

¹⁵- Article 193 of the Constitutional Amendment of 2020, previous source, p. 40.

There is also an exception to the application of the aforementioned Article 195, which is that the regulatory provision being objected to must not have previously been declared compliant with the Constitution by the Council of State or the Constitutional Court, except in the event of a change in circumstances¹⁶.

If the Constitutional Court is notified of the constitutionality of regulation of the Constitution and decides that it is unconstitutional because it violates the provisions of the Constitution, in this case the text loses its effect and is not ratified¹⁷.

The fourth subtitle : Oversight of the constitutionality of orders

The constitutional founder granted the President of the Republic, in accordance with the text of Article 142 the Constitutional Amendment of 2020, the authority to legislate by orders in the event of a vacancy in the in National People's Assembly or during the parliamentary recess, in urgent matters after taking the opinion of the Council of State, provided that the President of the Republic must notify the Constitutional Court regarding the constitutionality of these orders must be decided upon within a maximum period of ten days.

By extrapolating the text of the aforementioned article, it becomes clear to us that the constitutional founder stipulated, for the first time in the constitutional amendment of 2020, the constitutionality of the orders issued by the President of the Republic whenever the conditions stipulated in the aforementioned Article 142 are met, which are :

The condition of urgency : or the state of necessity, whose existence or not is determined by the President of the Republic alone. Therefore, we say that the President of the Republic has the discretion to announce this condition or not. As an example of this, we find that former President Abdelaziz Bouteflika during his term and in 2001 issued 05 orders without compliance With this condition.

Vacantness of the National People's Assembly :The National People's -Assembly shall be vacant and non existent when the parliamentary term of the Representative Council ends before the expiration of the constitutionally specified term, through obligatory or compulsory dissolution, optional or presidential dissolution premature legislative elections and finally in the event of the impossibility of renewing its term.

Parliamentary recess : During the period from July to September, the National People's Assembly is in a two- month parliamentary recess. We say here that the authority of the President of the Republic to legislate by orders has been reduced by reducing the parliamentary recess after it was four months before the constitutional amendment of 2016.

The condition of taking the opinion of the Council of State -, which is considered a binding condition, as the President of the Republic must consult the Council of State regarding these orders, but he is not obligated to take into account their content..

¹⁶- Article 21, paragraph The third of Organic Law N°. 22-19, previous source, p. 9.

¹⁷- Article 198, third paragraph, same source, p. 41.

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So, if these conditions are met, the President of the Republic can issue orders, which are subject to mandatory control, as notification is mandatory and is exercised exclusively by the President of the Republic and no one else, so that his notification powers cannot be delegated¹⁸. It is also this procedure may not be exercised by the appointed Head of State in the event of an impediment to the President of the Republic or a vacancy in his position, which can be deduced from the text of Article 96, paragraph three From the constitutional amendment of 2020.

Referring to the text of the aforementioned Article 142, especially its second paragraph, we find that the Constitutional Institution did not stipulate the period during which these orders must be referred to the Constitutional Court for constitutional review by the President of the Republic, as stated in Article 5 of N° 22- 19, where it stipulated In the period in which regulations -Organic Law can be notified by saying “within one month from the date of their publication meaning the absence of the time,” period in which orders must be notified, that is before or after the issuance¹⁹ of the order pre-censorship or post- censorship.

Organic Law N° 22-19 19 also did not address the issue of the time period within which orders must be notified and stipulated that the Constitutional Court shall decide on the constitutionality of orders issued by President of the Republic whenever the conditions for legislation with orders stipulated in Article 142 are met, within a maximum period of ten days from the date of its notification²⁰. We also find that, through the aforementioned organic law, it separated between regulations and orders, so that each of them was designated in an article, and with reference to the Specific System of Operating Rules for the Constitutional Court, we find that it did not address orders.

Finally, according to the third paragraph of the text of Article 198 of the Constitutional Amendment of 2020, if the Constitutional Court decides that an order is unconstitutional, this text loses its effect starting from the day the Constitutional Court’s decision is issued.

TITLE 3: Verifying the compliance of laws and regulations with the treaty

The fourth paragraph of Article 190 of the 2020 Constitutional Amendment stipulates that “the Constitutional Court shall decide by decision on the compatibility of laws and regulations with treaties, within the conditions respectively, in paragraphs 2 and 3 above,” and Article 154 of the same constitutional amendment stipulates that “treaties that Ratified by the President of the Republic, according to the conditions stipulated in the constitution, it supersedes the law.

By extrapolating the text of the two articles, we conclude that the Algerian constitutional system placed the treaties ratified by the President of the Republic in a position

¹⁸- Article 93, third paragraph from the Constitutional Amendment of 2020, previous source, p. 22.

¹⁹- Badir Yahya, « The Impact of Constitutional Control on Presidential Orders, Reading in Light of the Constitution and Practice », Journal of Legal and Political Studies, Volume 09, Issue 02, June 2023, p. 221.

²⁰- Article 6 of Organic Law N°. 22-19, previous source, p. 8.

above legislation, which is the same direction that the French system took, and made ordinary laws without membership subject to the control of compatibility with the treaties, which is a prior permissible control, since this compatibility is subject to the stipulated conditions. It is stipulated in the second paragraph of Article 190 mentioned above, which contains the phrase “may” in addition to the phrase “laws before their issuance.” This is what puts us in front of prior permissible oversight.

permissible oversight, since this compatibility is subject to the conditions stipulated in the third paragraph of Article 190, in which we find the phrase “may” and the phrase “one month from the date of its publication,” and here we are faced with a subsequent permissible oversight.

So the constitutional founder, in this type of oversight, combined the prior permissible oversight with the a posteriori or subsequent permissible oversight to ensure the compatibility of ordinary laws and regulations with the treaties, after notifying the Constitutional Court by the bodies constitutionally authorized to notify and within the limits of the legal deadlines that are adhered to by the related constitutional oversight. By laws and regulations, otherwise this right will be forfeited.

Therefore, if the Constitutional Court rules that laws are not compatible and if it rules that regulations are not²¹, with treaties, they will not be issued compatible with treaties within one month from the date of their publication, they will lose their effect starting from the day the Constitutional Court’s decision is issued²².

Conclusion:

In light of our study of the legal provisions regulating the jurisdiction of the Constitutional Court in light of the text of Article 190 of the Constitutional Amendment of 2020, we reached the following results :

Assigning the task of monitoring the constitutionality of laws to the judiciary achieves many advantages that are not available in a political body.

Despite the explicit tendency toward judicial oversight through the Constitutional Court, the influence of political censorship is still present, by considering notification as a means of communication with the Constitutional Court, even though it is considered a means of political oversight.

oversight is more stringent and comprehensive than constitutional oversight, as the court’s oversight extends to the conformity of laws to the constitution to the entire text or law.

The Constitutional Court exercises two types of oversight: prior, mandatory and permissible oversight, and subsequent, permissible oversight.

²¹- Article 5, first paragraph, of the specified system for the functioning rules of the Constitutional Court, previous source, p. 5.

²²- Article 5, second paragraph, same source, p. 5

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For the first time in the history of Algerian constitutions, oversight of the approval of laws and regulations for the treaty is recognized, in addition to the orders being also subjected for the first time to constitutional oversight.

Finally, we recommend:

Expanding the scope of notification and not limiting it to the three authorities, and opening the scope of notification to civil society activities, the National Council for Human Rights, and the Economic, Social and Environmental Council.

The Constitutional Institution reconsidered the second paragraph of Article 142 of the Constitutional Amendment of 2020 and Article 6 of Organic Law N°20-19, regarding the period within which the President of the Republic must notify the Constitutional Court regarding the constitutionality of the orders, before or after the issuance of the orders?