



Developments in Organic Law No. 25-13 Concerning the Court of Jurisdictional Conflicts in Algeria

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Abstract:

The 1996 Constitution established the system of judicial dualism, which led to the emergence of conflicts of jurisdiction between the administrative and ordinary courts. Consequently, the Court of Jurisdictional Conflicts was created under Organic Law No. 98-03 in 1998 to resolve these disputes. However, practical application revealed shortcomings in the composition and procedures of the court, especially with the recent legislative and institutional developments. This necessitated the promulgation of Organic Law No. 25-13 in December 2023, which introduced substantial organizational and procedural amendments consistent with the 2020 constitutional revision and the requirements of modernizing justice. This study aims to highlight the main new provisions introduced by Organic Law No. 25-13, which amends and supplements Law No. 98-03 concerning the competences, organization, and functioning of the Court of Jurisdictional Conflicts, and to provide a critical and evaluative reading of these developments.

Keywords: Court of Jurisdictional Conflicts – Law No. 98/03 – Law No. 25/13 – Organizational and Procedural Developments.

Évolution de la loi organique n° 25-13 relative à la Cour des conflits de juridiction en Algérie

Résumé :

La Constitution de 1996 a instauré le système du dualisme judiciaire, qui a entraîné l'émergence de conflits de compétence entre les tribunaux administratifs et les tribunaux ordinaires. En conséquence, la Cour des conflits de juridiction a été créée en vertu de la loi organique n° 98-03 en 1998 afin de résoudre ces litiges. Cependant, son application pratique a révélé des lacunes dans la composition et les procédures de la cour, en particulier avec les récentes évolutions législatives et institutionnelles. Cela a nécessité la promulgation de la loi organique n° 25-13 en décembre 2023, qui a introduit des modifications organisationnelles et procédurales substantielles conformes à la révision constitutionnelle de 2020 et aux exigences de modernisation de la justice. La présente étude vise à mettre en évidence les principales nouvelles dispositions introduites par la loi organique n° 25-13, qui modifie et complète la loi n° 98-03 relative aux compétences, à l'organisation et au fonctionnement de la Cour des conflits de juridiction, et à fournir une lecture critique et évaluative de ces évolutions.

Mots clés : *Cour des conflits de juridiction – Loi n° 98/03 – Loi n° 25/13 – Évolutions organisationnelles et procédurales.*



Introduction:

The judiciary is one of the most important pillars upon which the rule of law is founded, as it ensures the protection of rights and freedoms and guarantees the supremacy of law over all without exception. To achieve this goal, the Algerian legislator has, since independence, sought to develop the judicial system in harmony with modern constitutional principles. This was clearly reflected in the 1996 Constitution, which established the system of judicial dualism, meaning the existence of two independent judicial bodies: the ordinary judiciary and the administrative judiciary.

However, the implementation of this system generated several practical issues, the most significant of which were conflicts of jurisdiction between the two bodies. Consequently, the legislator created the Court of Jurisdictional Conflicts by virtue of Organic Law No. 98-03 of June 3, 1998, with the mission of resolving such conflicts and determining the competent authority.

Nevertheless, the practical application of this law revealed numerous deficiencies, whether in terms of the composition of the court, the manner of appointing its members, or its judicial procedures—especially in light of the legislative and institutional developments that Algeria has experienced in recent years. Therefore, it became necessary to revise the legal framework governing this court to align with the 2020 constitutional amendment and the requirements of justice modernization. Thus, Organic Law No. 25-13, issued on December 18, 2023, introduced

fundamental amendments affecting various organizational and procedural aspects of the court.

The aim of this research paper is to shed light on the most significant new provisions introduced by Organic Law No. 25-13, which amends and supplements Law No. 98-03 relating to the competences, organization, and functioning of the Court of Jurisdictional Conflicts, and to provide a critical and evaluative reading of these organizational and procedural developments.

Hence, the central research question is as follows:

What are the main new developments introduced by Organic Law No. 25-13 concerning the competences, organization, and functioning of the Court of Jurisdictional Conflicts?

To answer this question, the study adopts an analytical approach to examine the legal texts, complemented by a comparative method to highlight the main differences between the former Law No. 98-03 and the new Law No. 25-13.

To clarify the various aspects of the topic, this study is divided into two main sections:

1. The Concept of the Court of Jurisdictional Conflicts.
2. The Organizational and Procedural Developments Introduced by Law No. 25-13.

1. The Concept of the Court of Jurisdictional Conflicts

This section will address the definition, characteristics, and legal basis of the Court of Jurisdictional Conflicts before discussing the new developments introduced by Organic Law No. 25-13 concerning its competences, organization, and functioning.



1.1. Definition of the Court of Jurisdictional Conflicts

The Court of Jurisdictional Conflicts is a constitutional judicial body vested with general jurisdiction to consider and resolve conflicts of competence between the ordinary and administrative courts. It does not deal with jurisdictional disputes within the same judicial system, as such disputes are resolved under the provisions of the Code of Civil and Administrative Procedure.

1.2. Characteristics:

The Court of Jurisdictional Conflicts is distinguished by several characteristics that set it apart from other judicial bodies, including:

- **Independence:** Despite being part of the judiciary, the court stands outside both judicial hierarchies – ordinary and administrative – granting it a unique and special status.
- **Arbitral jurisdiction:** The court exercises arbitral rather than substantive jurisdiction, as it is limited to conflicts of competence between the two judicial branches.
- **Binding and final decisions:** The court's rulings are binding on both judicial systems and are final, not subject to appeal.
- **Unique internal organization:** Its composition reflects the principle of alternation and equal representation between the ordinary and administrative judiciaries, and unlike other courts, it has no chambers or divisions.

1.3. Legal Foundations:

The legislator established the Court of Jurisdictional Conflicts to prevent contradictory judgments, relying on both constitutional and legislative provisions, as follows:

- **Constitutional Basis:**

The foundation of the court lies in the Constitution. After the 1996 Constitution institutionalized judicial dualism, it became necessary to create a body responsible for resolving conflicts of jurisdiction between the administrative and ordinary courts. This role was assigned to the Court of Jurisdictional Conflicts, ensuring the proper functioning of the dual judicial system.

However, Article 152 of the 1996 Constitution (before its 2016 amendment) limited the court's jurisdiction to conflicts between the *Supreme Court* and the *Council of State* only. Thus, conflicts involving lower or appellate courts were excluded, even if their judgments were final. Consequently, the provision failed to resolve all jurisdictional conflicts.

The 2016 constitutional amendment revised this article by expanding the scope of jurisdiction to include all levels of the judiciary. Nonetheless, the ambiguous phrase "their other competences" in paragraph four caused interpretative difficulties, as Organic Law No. 98-03 did not specify any additional competences beyond jurisdictional conflicts.

The 2020 constitutional revision strengthened the court's position through Article 179, which clearly and comprehensively set out its organization and powers, removing the controversial phrase and confirming the court's essential role in ensuring the proper functioning of justice within a dual judicial system.



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- **Legal Basis:**

Following the 1996 Constitution and its explicit adoption of judicial dualism, the legislator enacted Organic Law No. 98-03 in 1998 to establish the Court of Jurisdictional Conflicts. The law contained 35 articles divided into five chapters and is considered the legislative birth certificate of the court after its constitutional creation.

Given subsequent judicial reforms—including the establishment of appellate administrative courts—and criticisms of Law No. 98-03 for weak drafting and lack of clarity regarding competences, the legislator enacted Organic Law No. 25-13 to fill these gaps, harmonize the court's framework with the 2020 Constitution, and modernize its structure and procedures.

1.2. The Organizational and Procedural Developments Introduced by Law No. 25-13

Organic Law No. 25-13 introduced a series of significant amendments to the provisions of Law No. 98-03 concerning the Court of Jurisdictional Conflicts, summarized as follows:

- **Adjustment of the Title to Align with the Constitution**

The title of a law reflects its true content; therefore, aligning it with the constitutional terminology is essential. To comply with Article 179 of the 2020 Constitution, the title of Organic Law No. 98-03 was modified to better correspond with the constitutional text, clarifying its subject and eliminating ambiguity. Similarly, Article 3 was revised to replace the term "*disputes*" with "*conflicts*", as the latter more

accurately describes jurisdictional issues rather than general litigation.

- **Increasing the Number of Judges**

Under Article 5 of Organic Law No. 25-13, the number of judges was raised from seven (7) to nine (9), including the president. This adjustment—adding one judge from the Supreme Court and one from the Council of State—aims to correct voting imbalances, ensure quorum, accelerate case processing, and promote balanced decision-making.

- **Extension of the President’s and Judges’ Term**

According to Article 7, the president, judges, and the State Commissioner (and assistant) are now appointed for a five-year term instead of three. This extension enhances institutional stability, judicial consistency, and long-term strategic planning. The absence of explicit provisions regarding renewal of terms, however, constitutes a legislative silence that may warrant clarification.

- **Standardization of Appointment Procedures**

The president is appointed by the President of the Republic for five years, alternately chosen from among judges of the Supreme Court and the Council of State, upon the proposal of the Permanent Bureau of the High Judicial Council and after obtaining its binding opinion. This reform ensures greater judicial independence by removing the Minister of Justice from the appointment process, aligning with the 2020 Constitution’s separation of powers.



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▪ **Modernization of Procedures**

The law introduced procedural modernization consistent with Algeria's e-justice strategy.

Cases may be referred to the court either:

- By judicial referral (upon a reasoned decision by a judge to suspend proceedings and refer the case to the Court of Jurisdictional Conflicts), or
- By direct filing from concerned parties in cases of positive or negative conflict within two months of the final non-appealable decision.

Moreover, plaintiffs may now submit petitions electronically, a significant step toward simplifying procedures and enhancing access to justice. The law also requires that the type of conflict be clearly specified in the petition, preventing overlap and improving procedural efficiency.

- Either by the concerned parties in cases of positive or negative conflict (Article 17/01), which provides that the concerned parties must file a conflict of jurisdiction claim within two months from the date on which the last decision becomes final and not subject to any appeal before either the ordinary or administrative courts.

The purpose of imposing a time limit in this case is to allow the competent judicial authority—whether belonging to the administrative or ordinary judiciary—an opportunity for correction, thereby reducing cases of conflict. The concerned party submits a request to the Court of Jurisdictional Conflicts through an opening petition, which must comply with specific predetermined rules on which

its admissibility depends. These conditions are stipulated in Article 14 of the Code of Civil and Administrative Procedure.

In order for the legislator to align with the State's orientation toward modernization (modernization of justice), and in line with the most recent amendment of the Code of Civil and Administrative Procedure by Law 22/13, the legislator introduced a modification regarding the form of the petition submitted to the Court of Jurisdictional Conflicts. The plaintiff is given the option to submit the petition either in paper or electronic form, which simplifies procedures for litigants, especially if they are unable to travel to the court. The petition is registered by the clerk's office and entered into a special register in order of receipt, indicating the names and surnames of the parties, the case number, and the date of the first hearing.

The legislator, in Organic Law No. 25/13 concerning the competences, organization, and functioning of the Court of Jurisdictional Conflicts, also introduced a new condition related to the petition, namely the necessity of specifying the type of jurisdictional conflict to be presented, in order to facilitate the determination and resolution of jurisdictional issues. This prevents overlap and confusion between applications and allows the subject matter to be handled with precision and efficiency. The petitions and memoranda must be signed by a lawyer accredited before both the Supreme Court and the Council of State. Under the previous law, litigants could choose a lawyer from either body. The legislator succeeded in this approach, given its



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benefits, especially since lawyers accredited before these bodies possess expertise and specialization in handling such cases and in drafting petitions properly and legally, focusing on arguments and defenses relevant to the Court of Jurisdictional Conflicts. The legislator also referred to a very important issue in Article 31 of Organic Law No. 25-13 concerning the competences, organization, and functioning of the Court of Jurisdictional Conflicts: the notification of the Court's decisions by all legal means by the clerk's office. From the text of this article, even implicitly, it can be understood that notification may be carried out by all available means, including electronic notification using information and communication technologies in the field of e-justice, whether visual or audio. This demonstrates the legislator's intention to establish an information system that enables the provision of services quickly and allows for electronic processing.

As for the stages of issuing the judgment, once the Court of Jurisdictional Conflicts is notified, the President of the Court appoints a reporting counselor from among its members. The latter studies the case by examining the memoranda and documents and then prepares a report that is sent to the State Commissioner. The role of the latter was strengthened by this organic law through Article 22 bis, which requires him to submit a written report within one month from the date he receives the reporting counselor's report. The amendment obliges him to prepare a report containing a presentation of

the facts and procedures, the issue to be decided by the Court of Jurisdictional Conflicts, his opinion and proposed solutions, and his requests regarding the case referred to him. This report is publicly presented in the hearing in addition to oral observations. This was not mentioned in Organic Law No. 98-03, which only required the State Commissioner to submit a memorandum. This is considered a positive step in strengthening the role of the State Commissioner and making his opinion more influential in the case. However, what is criticized in the legislator's approach is the absence of any reference to whether this report is binding on the judge or not. Regarding the functioning of the court, for the deliberations to be valid, the Court of Jurisdictional Conflicts must be composed of at least five judges, including two from the Supreme Court and two from the Council of State. In the new amendment to the organic law related to the Court of Jurisdictional Conflicts, the legislator replaced the term "members" with "judges," reflecting a desire to use proper legal terminology and to confer a judicial character on those participating in deliberations. The term "member" merely indicates belonging to a given body, whereas "judge" is a professional and judicial title. The change also indicates that the individuals representing this court are not acting as representatives of their original institutions but rather in an independent judicial capacity requiring them to apply the law and issue judicial decisions binding on all.

The legislator also introduced a new amendment



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providing for the appointment by the President of the Court of Jurisdictional Conflicts of two substitute judges for each session to replace any absent judge or judges, provided they belong to the same judicial body. This ensures the continuity of the court's work, prevents the postponement of sessions, and maintains both the legal quorum and the balance of the judicial composition. However, it is surprising that the legislator reintroduced the term "two absent members" instead of "the absent judge or judges," even though he had already adopted the latter terminology earlier, for the reasons previously explained.

3. Expansion of the Competences of the Court of Jurisdictional Conflicts:

The Court of Jurisdictional Conflicts has jurisdiction over matters related to conflicts of competence between the ordinary and administrative courts without addressing the subject matter of the dispute itself, unless examining the substance is necessary to determine the competent judicial authority. The situations of conflict within the court's jurisdiction can be classified as follows:

3.1. Positive Conflict of Jurisdiction:

This refers to the situation where both the administrative and ordinary courts claim jurisdiction over the same case, requiring the intervention of the Court of Jurisdictional Conflicts to determine the competent judicial body. The origin of positive conflict lies in French law, where it was considered a means to protect the administration from the

control of the ordinary judiciary over disputes arising between the administration and individuals, especially after France's negative experience with the parliaments.

3.2.Negative Conflict of Jurisdiction:

A negative conflict occurs when both the administrative and ordinary courts issue judgments declaring themselves incompetent to hear the same case. The plaintiff whose case has been rejected by both courts may then bring an action before the Court of Jurisdictional Conflicts to determine the competent authority.

This type of conflict requires the following conditions to be met:

- Both the ordinary and administrative courts must have issued judgments declaring themselves incompetent to hear the dispute.
- Each judgment must be based on the reasoning that the dispute falls within the jurisdiction of the other judicial body.
- The dispute must be identical in subject matter, cause, and parties before both courts.

3.3.Contradiction Between Two Final Judgments:

This situation arises when both the ordinary and administrative courts issue final judgments on the same matter that are contradictory. The following conditions must be met:

- There must be a contradiction between two judicial decisions on the substance of the case, not on jurisdiction, as the latter concerns a negative conflict.



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- The two judgments must be completely contradictory, whether in the facts, legal characterization, or the applied law.
- The plaintiff must find themselves in a situation where they are deprived of their rights, resulting in a denial of justice.

As for Article 18, it has undergone amendments that have strengthened the role of the court. When a judge discovers that the case before them does not fall within their jurisdiction or that there is a jurisdictional conflict, they must refer the file to the Court of Jurisdictional Conflicts. This means that the judge is prohibited from continuing to hear a case over which they have no jurisdiction. Once the file is referred, all proceedings before the court are suspended. The legislator set a time limit of one month from the date of the referral decision, which ensures that proceedings do not drag on excessively.

This article also introduced a very important paragraph that adds value to the Court of Jurisdictional Conflicts and confirms the importance of the principle of judicial jurisdiction, making it an essential condition for the validity of legal proceedings. If the Court of Jurisdictional Conflicts determines the competent authority for the dispute, it annuls all procedures and judgments previously issued, whether by the referring court or by any other judicial body belonging to the same judicial system.

The legislator maintained the text of Article 18 in principle but added new details regarding referral procedures, stating that the referral must be by a reasoned decision, and adding an obligation on the clerk of the court to send a copy of the referral decision and related

documents to the Court of Jurisdictional Conflicts within one month. The same article also adds new powers to the Court of Jurisdictional Conflicts: after previously ruling only on jurisdiction, the new amendment grants it the authority to annul judgments and procedures taken by an incompetent judicial authority or to annul the judgment of another judicial body that erred in assessing its jurisdiction.

The precise determination of the clerk's responsibility and the deadline prevents delays and closes procedural gaps that used to hinder the efficiency of the Court of Jurisdictional Conflicts. As for the new competences—namely, the annulment of judgments and procedures that led to the conflict—they result in the elimination of the legal existence of the contradictory judgment, meaning that the Court is no longer merely an advisory body but has become a true judicial authority possessing executive power to end the dispute.

4. The possibility of the Court of Jurisdictional Conflicts' decisions being subject to an interpretative action or a material correction claim

The decisions of the Court of Jurisdictional Conflicts are characterized by being final and not subject to appeal in substance. However, in the latest amendment to its organic law (No. 25-13), the legislator introduced exceptions to address formal errors without affecting their binding authority. These decisions may also be the subject of an interpretative action.

According to Article 32 of Organic Law No. 25-13 concerning the competences, organization, and functioning of the Court of Jurisdictional Conflicts, the Court's decisions may be subject to an interpretative action, which refers to a



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judicial action brought by those with legal standing and interest before the competent judicial authority, requesting the interpretation of a unilateral act. Ambiguous wording is not exclusive to administrative decisions; it can also occur in legislation and judicial rulings, which may compel an individual to file an interpretative claim. The purpose of interpretation here is solely to clarify the judgment, not to review or reopen what has already been decided.

They may also be subject to an action for the correction of material errors, as the issuance process is a human act susceptible to non-legal, purely material mistakes attributable to the judge or to the judicial administration as a whole. The legislator included this under the category of extraordinary remedies and defined the concept of a material error as follows: "A material error means an incorrect representation of a material fact or the omission of its existence. However, correcting a material error or omission does not lead to modifying the rights and obligations determined by the judgment."

The legislator granted the President of the Court the power to directly correct material errors affecting the Court's decisions without the need to initiate a new legal action or follow long and complex procedures. This ensures that procedures are accelerated and simplified and facilitates the litigant's access to an accurate and valid decision, thereby strengthening confidence between litigants and the judiciary in Algeria.

However, the legislator did not specify who may initiate the interpretative action or request for correction, nor did it define the procedures followed before the Court of Jurisdictional Conflicts. This may be due to the existence of

such provisions in the Code of Civil and Administrative Procedure, which means that its general rules should apply in this regard. Nevertheless, it would have been preferable for the legislator to indicate this explicitly in order to avoid inconsistencies in practical application.

Conclusion:

After studying and analyzing the provisions of Organic Law No. 25-13 concerning the Court of Jurisdictional Conflicts, we conclude that the Algerian legislator sought through this text to reorganize the Court on modern foundations that align with the amendments introduced by the Constitution and the country's judicial system, particularly the 2020 constitutional amendment that enshrined new judicial principles and structures.

Organic Law No. 25-13, concerning the competences, organization, and functioning of the Court of Jurisdictional Conflicts, represents a qualitative shift in the organization of the Court through the modernization of its structure, the expansion of its composition, and the amendment of its procedures. These innovations are not merely formal changes but express a strategic direction toward consolidating justice and ensuring the unity of judicial interpretation.

From this research paper, we have reached a number of conclusions:

- Organic Law No. 25-13 was enacted in response to the requirements of the 2020 constitutional amendment, which reaffirmed the independence of the judiciary



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and the need to adapt legal texts to the new structural and institutional changes.

- The law introduced structural reform in the organization of the Court of Jurisdictional Conflicts by increasing the number of judges and expanding its composition to avoid quorum issues, thereby contributing to the regularity of sessions and the stability of judicial work.
- The law extended the mandate of judges and the president of the Court to five years instead of three, which contributes to the stability of the Court's composition and consistency in judicial precedent.
- The legislator enshrined the principle of digitalization in judicial procedures by allowing the electronic submission of petitions, in line with the digital era and the aim of eliminating bureaucracy.
- The law introduced the possibility of correcting material errors and interpreting decisions, which reinforces the principle of justice and prevents formal mistakes from remaining uncorrected.

Based on these findings, we propose several

Recommendations:

- The legislator should clarify the issue of term renewal, either by explicitly allowing a single renewal or by defining it as a non-renewable term, to ensure the stability of the Court.
- The reconsideration of the multiple consultative procedures involved in appointing members of the Court of Jurisdictional Conflicts, through

simplification without undermining the principle of balance between powers.

- The need to expedite the development of an integrated digital system specific to the Court of Jurisdictional Conflicts that defines the methods of using electronic means while ensuring information security and the confidentiality of deliberations.
- The publication of a digital guide for lawyers and litigants explaining how to use the digital system, ensuring transparency and easy access to justice.
- The precise regulation of the limits of interpretative and correctional actions so that they do not become an indirect means of reconsidering the substance of judgments, thereby preserving the principle of *res judicata*.
- The preparation of a unified procedural guide clarifying the conditions and procedures for filing actions and correcting material errors to avoid divergent judicial interpretations among judges.

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