

Commercial Judiciary as a Mechanism for Achieving Judicial Security in Algerian Legislation

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Abstract:

This article examines the role of the commercial judiciary as a mechanism for achieving judicial security in Algerian legislation. In response to growing economic complexity and the evolution of commercial disputes, the Algerian legislator has progressively established specialised judicial bodies, including commercial divisions within courts and, more recently, specialized commercial courts governed by Law No. 22-13 of 2022 and related executive decrees. The study analyses the distinction between these two judicial structures in terms of territorial and subject-matter jurisdiction, adjudicatory composition, and procedural rules (including mediation before commercial divisions and mandatory conciliation before specialised commercial courts). The research highlights the legislator's dual objective: to ensure rapid, high-quality resolution of simple commercial disputes through commercial divisions, and to provide enhanced judicial guarantees for complex commercial matters (e.g., intellectual property, company disputes, bankruptcy, banking, maritime and air transport, and international trade) through specialised courts. The article identifies several legislative ambiguities, contradictions, and procedural gaps, such as unresolved territorial jurisdiction rules for intellectual property claims, lack of an appellate body dedicated to specialised commercial court judgments, absence of mandatory legal representation, and

insufficient provisions for correcting material errors in mediated or conciliated settlements. The study concludes with concrete proposals to reform the Code of Civil and Administrative Procedure and to strengthen judicial training, aiming to reinforce judicial security, investor confidence, and the effectiveness of commercial justice in Algeria.

Keywords: Commercial judiciary; judicial security; specialised commercial courts; procedural rules (Algeria); commercial divisions.

Introduction:

In response to economic developments in Algeria in particular, and across the world in general, commercial disputes have evolved locally, internationally, and technically. They have become more complex and now require specialized technical and legal expertise to be resolved. For this reason, the Algerian legislature has sought to adopt a legislative policy in line with these developments, with the aim of achieving judicial security, ensuring the quality of judicial decisions, strengthening confidence in the judiciary, improving the accuracy of judgments, speeding up dispute resolution, ensuring the proper and correct application of economic laws, and providing judicial guarantees for investors and for attracting capital. This has been pursued through the establishment of commercial judicial bodies. The task of adjudicating simple

commercial disputes has been assigned to commercial divisions within the courts, whereas commercial disputes that are characterised by complexity have been assigned to specialised commercial judicial bodies, for which special procedural rules have been established that differ from those applicable to other commercial disputes, in order to consolidate the independence of commercial justice from civil justice.(Saoudi, 2026).

Initially, the resolution of certain disputes, such as bankruptcy and judicial settlement disputes, was assigned to the court of the council's seat under the former Code of Civil Procedure (Order No. 71-80 of 29 December 1971, Article 1, paragraph 3, and Article 8, final paragraph). Following the repeal of this law by Law No. 08-09 of 25 February 2008 on the Code of Civil and Administrative Procedure, the legislator established specialised hubs under Article 32 of the Code of Civil and Administrative Procedure to adjudicate disputes relating to international trade, bankruptcy and judicial settlement, banking disputes, intellectual property disputes, maritime disputes, air transport disputes, and insurance disputes (Algerian legislator, 2008).

However, specialised hubs are not independent, self-standing judicial bodies; rather, they are attached to the court but independent from its divisions (civil division, commercial division, property division, etc.). They adjudicate disputes falling within their territorial and subject-matter jurisdiction in a collective formation consisting of three judges. Pending the establishment of specialised hubs, Article 1063 of the Code of Civil and Administrative Procedure provides for the application of the jurisdictional rules set out in Article 40, paragraphs 3 and 4 of the same law. Nevertheless, these specialised hubs have never been established—effectively

stillborn—due to the non-issuance of the necessary implementing texts from 2008 to the present day (Saoudi, 2026).

Subsequently, specialised commercial courts were established under Law No. 22-07 of 5 May 2022 on the judicial division of the jurisdiction of certain judicial councils. Initially numbering 12 courts nationwide, their number was increased to 25 specialised commercial courts by Executive Decree No. 26-133 of 30 March 2026, amending and supplementing Executive Decree No. 23-53 of 14 January 2023 defining the territorial jurisdiction of specialised commercial courts. Their jurisdiction, composition, and procedures were organised by amendments to the Code of Civil and Administrative Procedure in Articles 536 bis to 536 bis 7 of Law No. 22-13 of 12 July 2022, amending and supplementing Law No. 08-09 on the Code of Civil and Administrative Procedure, implementing Article 28 of Organic Law No. 22-10 of 9 June 2022 on judicial organisation. These courts have exclusive jurisdiction over certain exhaustively listed disputes under Article 536 bis of the amended Code of Civil and Administrative Procedure—disputes characterised by complexity requiring special technical and legal expertise for resolution—operating in parallel with the commercial divisions of courts, to which the legislator has left jurisdiction over other commercial matters not mentioned in the aforementioned Article 536 bis (Algerian legislator, 2022).

The specialised commercial court is a judicial body competent to adjudicate exhaustively listed disputes under the Code of Civil and Administrative Procedure in a collective formation, issuing first-instance judgments appealable to the judicial council to which it belongs. In this regard, the Algerian legislator seeks to achieve specialisation in the judicial field to raise the standard of judicial work, both in terms of specialisation of judges and

specialisation of judicial bodies, in keeping with modern trends in Algerian judicial organisation, by establishing specialised judicial bodies to adjudicate complex commercial disputes requiring special technical and legal expertise for resolution (Saoudi, 2026).

The Algerian legislator has distinguished between the procedures followed for adjudicating commercial disputes falling within the jurisdiction of specialised commercial courts and those falling within the jurisdiction of the commercial divisions of courts, which highlights the importance of this research.

This research aims to identify the special procedural rules by which the legislator has distinguished the resolution of complex commercial disputes requiring special procedures and technical and legal knowledge, distinguishing them from the procedural rules applicable to other commercial disputes falling within the jurisdiction of commercial divisions of courts—disputes characterised by simplicity—and from the procedures followed before those divisions.

To study this subject, the following research question is raised: **What are the procedural rules to be followed before specialised commercial courts, and what distinguishes them from those to be followed before the commercial divisions of courts? What is their impact on achieving judicial security in Algerian legislation?**

To answer this problem, the subject is divided into two sections. The first section examines the distinction between procedural rules relating to jurisdiction for specialised commercial courts and the commercial division of the court. The second section examines the distinction between procedural rules relating to the conduct of proceedings

before the specialised commercial court and the commercial division of the court.

Section One: Distinction Between Procedural Rules Relating to Jurisdiction for Specialised Commercial Courts and the Commercial Division of the Court:

This section examines the rules of territorial jurisdiction for the commercial division and the specialised commercial court in the first subsection, followed by the rules of subject-matter jurisdiction for the commercial division and the specialised commercial court in the second subsection.

Subsection One: Rules Relating to Territorial Jurisdiction:

Territorial jurisdiction refers to the competence of each judicial body to adjudicate disputes based on the location of the dispute, as courts are distributed on a geographical basis. Territorial jurisdiction is linked to the rules of judicial organisation determined by Executive Decree No. 24-77 of 8 February 2024, which defines the territorial jurisdiction of judicial councils and the courts subordinate to them, giving each court a territorial jurisdiction (Algerian government, 2024). Territorial jurisdiction is also linked to the subject matter of the dispute itself: if the matter concerns immovable property, the competent court is that within whose jurisdiction the property is located; if the matter concerns movable property, the competent court is that of the defendant's domicile.

The rules governing territorial jurisdiction apply to all judicial bodies except the Supreme Court, which is not subject to territorial jurisdiction rules as it has national jurisdiction, exercising its powers over all judgments and decisions issued by courts and judicial councils.

Accordingly, the first branch examines the territorial jurisdiction of the commercial

division of the court, and the second branch examines the territorial jurisdiction of the specialised commercial court.

Branch One: Territorial Jurisdiction of the Commercial Division of the Court:

The territorial jurisdiction of the commercial division of the court extends to the territorial jurisdiction of the court to which it belongs and is subject to the provisions of Executive Decree No. 24-77 of 8 February 2024, which defines the territorial jurisdiction of judicial councils and the courts subordinate to them.

Under Article 532 of the Code of Civil and Administrative Procedure, the provisions of territorial jurisdiction set out in this Code, as well as the rules set out in the Commercial Code, the Maritime Code, and special texts, apply.

Referring to the rules relating to territorial jurisdiction, the general rule for determining the territorial jurisdiction of the commercial division, like other divisions of the court, is "the court within whose jurisdiction the defendant's domicile is located"—that is, the claimant seeks out the defendant at the court nearest to the latter's domicile.

Article 37 of the Code of Civil and Administrative Procedure provides: "Territorial jurisdiction lies with the judicial body within whose jurisdiction the defendant's domicile is located. If the defendant has no known domicile, jurisdiction reverts to the judicial body within whose jurisdiction their last domicile is located. In the case of a chosen domicile, territorial jurisdiction lies with the judicial body within whose jurisdiction the chosen domicile is located, unless the law provides otherwise" (Algerian legislator, 2008).

For natural persons, Article 36 of the Civil Code provides that the domicile of any Algerian is the place where their principal

residence is located, and in the absence of a residence, it is replaced by their ordinary place of residence.

If the defendant has no known domicile, the claim is brought before the court within whose jurisdiction their last domicile is located.

As for the domicile of a legal person, it is the place where its administrative centre is located under Article 50 of the Algerian Civil Code.

In the case of multiple defendants, territorial jurisdiction lies with the court within whose jurisdiction the domicile of any one of the defendants is located, according to Article 38 of the Code of Civil and Administrative Procedure.

The legislator has provided exceptions to the general rule of territorial jurisdiction for the commercial division, like other divisions of the court, subjecting certain matters to a court other than that of the defendant's domicile, designating a specific territorially competent court to hear certain claims regardless of the defendant's domicile (Saoudi, 2026).

Nature of Territorial Jurisdiction Rules for the Commercial Division of the Court:

As a general rule, the territorial jurisdiction rules for the commercial division of the court are not matters of public policy, unlike other territorial jurisdiction rules for ordinary judicial bodies. Article 45 of the Civil and Administrative Procedure Code permits traders to agree to derogate from territorial jurisdiction rules; if these rules were matters of public policy, neither traders nor others could agree to derogate from them. Furthermore, Article 46 of the same Code allows litigants to appear voluntarily before a judge even if that judge lacks territorial jurisdiction; if these rules were matters of public policy, litigants could not appear before a territorially incompetent judge. Additionally, Article 47 of this Code requires that any objection to

territorial jurisdiction be raised before any defence on the merits; if these rules were matters of public policy, such objection could be raised at any stage of the proceedings (Algerian legislator, 2008).

However, for the matters listed in Article 40 of the Code of Civil and Administrative Procedure, territorial jurisdiction is exclusive to the bodies mentioned in that Article.

Branch Two: Territorial Jurisdiction of Specialised Commercial Courts:

The territorial jurisdiction of specialised commercial courts is governed by Executive Decree No. 23-53 of 14 January 2023, amended and supplemented by Executive Decree No. 26-133 of 30 March 2026, defining the territorial jurisdiction of specialised commercial courts. Under this decree, the territorial jurisdiction of a specialised commercial court may extend to more than one judicial council, according to the appendix attached to this executive decree (Algerian government, 2026).

Under Article 536 bis 1, the provisions of territorial jurisdiction set out in the Code of Civil and Administrative Procedure apply to specialised commercial courts.

Accordingly, as a general rule, the same territorial jurisdiction provisions applying to ordinary courts apply to specialised commercial courts, with exceptions for disputes relating to bankruptcy and judicial settlement of companies, as well as claims relating to partner disputes and intellectual property disputes. For these, the legislator has established special territorial jurisdiction rules in Article 40 of the Code of Civil and Administrative Procedure, as follows:

1. Claims relating to bankruptcy and judicial settlement of companies: The competent court is the court within whose jurisdiction the place of bankruptcy opening or

judicial settlement is located, or the place of the company's registered office. Here, the legislator means the specialised commercial court within whose jurisdiction the place of bankruptcy opening or judicial settlement is located, or the place of the company's registered office. It is noted that the drafting of Article 40 concerning bankruptcy and judicial settlement claims is incomplete; the legislator should have used the term "specialised commercial court" to align with Article 536 bis of the same Code, which assigned intellectual property disputes to the specialised commercial court. Accordingly, it is proposed that the legislator amend Article 40 when revising the Code of Civil and Administrative Procedure as follows: "Claims relating to bankruptcy and judicial settlement of companies shall be heard by the specialised commercial court within whose jurisdiction the place of bankruptcy opening or judicial settlement is located, or the place of the company's registered office."

2. Claims relating to partner disputes: The competent court is the specialised commercial court within whose jurisdiction the place of the company's registered office is located.

3. Claims relating to intellectual property: These are heard before the court sitting at the seat of the judicial council within whose jurisdiction the defendant's domicile is located.

What is observed here is an ambiguity—if not a contradiction—between Article 40 of the Code of Civil and Administrative Procedure, which assigns territorial jurisdiction for intellectual property claims to the court sitting at the seat of the judicial council within whose jurisdiction the defendant's domicile is located, and Article 536 bis of the same Code, which assigns intellectual property disputes to the specialised commercial court. Specialised commercial courts are not present in every judicial council; their territorial jurisdiction extends to more than one judicial council. The

problem arises when the defendant's domicile falls under a court at the seat of a judicial council where no specialised commercial court exists (Saoudi, 2026).

This ambiguity can be resolved by harmonising the two texts: the legislator intends that territorial jurisdiction in intellectual property claims belongs to the specialised commercial court to which the judicial council—at whose seat the court of the defendant's domicile is located—is attached.

To remove this ambiguity, it is proposed that the legislator amend Article 40 concerning intellectual property claims when revising the Code of Civil and Administrative Procedure to state: "Claims relating to intellectual property shall be heard before the specialised commercial court within whose jurisdiction the defendant's domicile is located."

Nature of Territorial Jurisdiction Rules for Specialised Commercial Courts:

Territorial jurisdiction of the specialised commercial court for disputes relating to bankruptcy and judicial settlement of companies, as well as claims relating to partner disputes and intellectual property disputes, applying the provisions of Article 40 of the Code of Civil and Administrative Procedure, is exclusive to the judicial bodies specified in Article 40. That is, such claims cannot be brought before any judicial body other than that specified in this text, as evidenced by the legislator's use of the phrase "...and no other" in drafting this Article.

For other matters falling within the jurisdiction of specialised commercial courts, the same rules apply as those governing territorial jurisdiction for ordinary judicial bodies, according to Article 536 bis 1 of the amended Code of Civil and Administrative Procedure, as previously explained (Algerian legislator, 2022).

Subsection Two: Rules Relating to Subject-Matter Jurisdiction:

Subject-matter jurisdiction refers to the competence of a judicial body to hear a specific type of claim—that is, the scope within which the judicial body exercises its functions according to the type of claim (Saoudi, 2026). The first branch of this subsection examines the subject-matter jurisdiction of the commercial division of the court, and the second branch examines the subject-matter jurisdiction of the specialised commercial court.

Branch One: Subject-Matter Jurisdiction of the Commercial Division of the Court:

Under Article 531 of the amended Code of Civil and Administrative Procedure, the commercial division has jurisdiction to hear commercial disputes, with the exception of those mentioned in Article 536 bis of the same Code.

It is observed that the legislator has adopted a negative definition of the subject-matter jurisdiction of the commercial division, providing that all commercial disputes not falling within the subject-matter jurisdiction of the specialised commercial court fall within the jurisdiction of the commercial division.

Accordingly, disputes falling within the subject-matter jurisdiction of the commercial division include:

- Disputes arising between traders, except those relating to commercial companies;
- Disputes relating to objectively commercial acts, whether unilateral (such as purchase for resale, real estate development operations, brokerage, and agency for commission), except disputes relating to banking operations and exchange operations;

- Disputes relating to formally commercial acts (such as transactions involving promissory notes, business agencies and offices regardless of purpose, and operations relating to business assets—sale, purchase, mortgage, lease, etc.), except disputes relating to commercial companies and commercial contracts relating to maritime and air trade;

- Disputes relating to commercial acts by accessory (Saoudi, 2026).

Branch Two: Subject-Matter Jurisdiction of Specialised Commercial Courts:

Unlike the subject-matter jurisdiction of the commercial division, the Algerian legislator has adopted a positive definition of the subject-matter jurisdiction of specialised commercial courts in Article 536 bis of the amended Code of Civil and Administrative Procedure, explicitly and exhaustively specifying their jurisdiction over the following disputes (Algerian legislator, 2022):

1. **Intellectual property disputes:** Including claims relating to copyright and related rights, industrial property rights, unfair competition, counterfeiting, and piracy.

2. **Commercial company disputes, particularly company disputes and company dissolution and liquidation:** All claims relating to commercial companies, whether partnerships or joint-stock companies, concerning partner disputes (such as expulsion of a partner or profit sharing) and disputes arising from their liquidation.

3. **Disputes relating to judicial settlement and bankruptcy:** Claims relating to the declaration of a trader's bankruptcy, whether the trader is a natural or legal person (such as a company), or judicial settlement.

4. **Disputes between banks and financial institutions and traders:** Banks and financial institutions conduct banking activities that may

give rise to relationships with borrowers and depositors, which fall within the jurisdiction of specialised commercial courts.

5. **Maritime disputes, air transport disputes, and insurance disputes relating to commercial activity:** Under Article 3 of the Commercial Code, these are disputes relating to the construction, purchase, sale, or charter of ships or aircraft, provided they are intended for commercial navigation and sea or air voyages undertaken by their owner or charterer for the transport of goods or persons under a contract between carrier and consignor, as well as other contracts relating to maritime or air trade, and insurance contracts relating to commercial activity.

6. **Disputes relating to international trade:** Disputes arising from commercial contracts where one of the parties is a foreign entity.

It is noted that the legislator has excluded from the subject-matter jurisdiction of specialised commercial courts certain complex commercial disputes requiring special expertise and knowledge for resolution, such as disputes relating to commercial paper and disputes relating to business assets.

Accordingly, it is proposed that the legislator amend Article 536 bis to include disputes relating to commercial paper and disputes relating to business assets.

Section Two: Distinction Between Procedural Rules Relating to the Conduct of Proceedings Before the Specialised Commercial Court and the Commercial Division of the Court:

This section examines the organisation and composition of the adjudicating body for the commercial division and the specialised commercial court in the first subsection, followed by the procedural rules for litigation before both the commercial division and the

specialised commercial court in the second subsection.

Subsection One: Organisation and Composition of the Adjudicating Body:

The first branch of this subsection examines the organisation and composition of the commercial division of the court, and the second branch examines the organisation and composition of the specialised commercial court.

Branch One: Organisation and Composition of the Commercial Division of the Court:

Under Article 533 of the Code of Civil and Administrative Procedure, the commercial division is composed of a single judge. Every court has a commercial division headed by a judge who has jurisdiction, at first instance, over commercial matters falling within the subject-matter and territorial jurisdiction of the court, in accordance with the Code of Civil and Administrative Procedure, the Commercial Code, and applicable special laws. The president of the court may, after consulting the public prosecutor, divide the commercial division into branches according to the volume and importance of judicial activity, in which case each branch is headed by a judge. The commercial division of the court has a registry office (Algerian legislator, 2008).

Branch Two: Organisation and Composition of the Specialised Commercial Court:

The specialised commercial court is composed of divisions. The president of the specialised commercial court determines the number of divisions by order, after consulting the public prosecutor, according to the nature and volume of judicial activity.

Under Article 536 bis 6, the president of the specialised commercial court exercises all the

powers vested in the president of an ordinary court in commercial disputes, and may take, by way of urgent application, interim or conservatory measures to preserve the rights that are the subject of the dispute.

Under Article 536 bis 7, the public prosecution before this court is represented by the public prosecutor of the court located within its jurisdiction, in accordance with the provisions of the Code of Civil and Administrative Procedure, particularly Articles 256 to 260 (Algerian legislator, 2022).

The divisions of the specialised commercial court are presided over by a judge assisted by four assistants who have extensive knowledge of commercial matters falling within the jurisdiction of specialised commercial courts. The assistants have deliberative (not merely advisory) votes. The assistants are selected from a list prepared by the commission whose composition is set out in Article 3 of Executive Decree No. 23-52. The conditions that assistants must satisfy are specified in Article 5 of the same decree.

It is noted here that the Algerian legislator has departed from the French legislator: whereas French judges are elected, Algerian judges are appointed.

The commercial court may validly sit in the absence of two or more assistants, in which case they are successively replaced by one or two judges.

It is observed that the legislator has attached no legal consequence to the invalidity of the specialised commercial court's sitting due to the absence of assistants, even though they have deliberative votes. The legislator should have provided for their replacement by substitute assistants.

Accordingly, it is proposed that the legislator amend the final paragraph of Article 536 bis 2 of the Code of Civil and Administrative

Procedure as follows: "In the event of the absence of two or more assistants, they shall be replaced by other assistants from the reserve list."

Subsection Two: Procedural Rules for Litigation:

The first branch of this subsection examines the procedural rules for litigation before the commercial division of the court, and the second branch examines the procedural rules for litigation before the specialised commercial court.

Branch One: Litigation Before the Commercial Division of the Court:

Claims are brought before the commercial division by means of a statement of claim filed by the claimant, their agent, or their lawyer, which must contain the legally specified information under Article 15 of the Code of Civil and Administrative Procedure, and must be signed by the claimant, their agent, or their lawyer. It is registered with the court registry (finance department) of the territorially and subject-matter competent commercial division, in a number of copies equal to the number of parties, and entered in a special register in order of receipt, with the names and titles of the parties indicated, and assigned a case number and hearing date. The registrar then records the date of the first hearing and the case number on the copies of the statement and hands them to the claimant for the purpose of formally summoning the parties to appear at the hearing through a court bailiff (Saoudi, 2026).

The statement is not registered until the legally prescribed fees are paid, unless the claimant is exempt from paying court fees under the law—such as beneficiaries of legal aid under Article 17 of the Code of Civil and Administrative Procedure.

The president of the commercial division must, before adjudicating the dispute, propose mediation to the parties by order, attempting to reach an amicable solution. Mediation before the commercial division does not require the parties' acceptance—that is, it is mandatory and not subject to the consent of the parties. The provisions of Articles 994 to 1005 of the Code of Civil and Administrative Procedure apply to mediation (Algerian legislator, 2008).

The judge may terminate mediation at any time at the request of the parties or the mediator, or on their own initiative if they find that proper conduct of the mediation has become impossible, and the case is returned to the docket. Upon completing their task, the mediator informs the judge in writing of whether the parties have reached an agreement. If the parties reach an agreement, the mediator draws up a record containing the content of the agreement, signed by the mediator and the parties. The case is returned to the judge for approval of the agreement record by order, which is not subject to any appeal, and the agreement becomes an enforceable instrument.

In practice, it is observed that material errors may occur in the mediation record that has become an enforceable instrument—for example, an error in the agreed debt amount or a discrepancy between the amount written in words and in figures. This raises issues in the enforcement of this enforceable instrument, particularly if the discrepancy is substantial. The judge cannot correct it, and it is not subject to any appeal and acquires *res judicata* authority, rendering this enforceable instrument effectively useless, impossible to enforce, and resulting in the loss of the parties' rights.

Accordingly, it is proposed that the legislator insert an article in the Code of Civil and Administrative Procedure allowing the judge to correct material errors that may affect the mediation record approved by the court.

If the parties do not reach an agreement, the case is returned to the judge for adjudication.

The president of the commercial division adjudicates the cases before them according to the procedures set out in the Code of Civil and Administrative Procedure, the Commercial Code, and special laws, issuing a first-instance judgment appealable to the judicial council to which the court containing the commercial division belongs.

The president of the commercial division also exercises the powers conferred on the urgent applications judge to take interim or conservatory measures to preserve the rights that are the subject of the dispute, in accordance with the procedures set out in the Code of Civil and Administrative Procedure and special texts, pursuant to Article 536 of this Code.

Branch Two: Litigation Before the Specialised Commercial Court:

Before a claim is entered or registered with the specialised commercial court, a conciliation procedure must be carried out, initiated at the request of one of the parties. The request for conciliation is submitted to the president of the specialised commercial court under Article 536 bis 4. The president of the court must, within five days of the date of the request, designate by order on petition one of the judges to conduct the conciliation procedure within a period not exceeding six months (Algerian legislator, 2022).

Unlike mediation before the commercial division, which is conducted by someone other than the judge (whether a natural person or an association under Article 997 of the Code of Civil and Administrative Procedure), the conciliation procedure before the specialised commercial court is conducted by a judge.

The party requesting conciliation must notify the parties of the date of the conciliation hearing set by order, through a court bailiff.

The judge may seek assistance from any person they deem appropriate to help conduct the conciliation. However, the legislator has not specified who is responsible for paying the fees of this person whom the judge seeks to assist, nor the method of paying such fees.

The conciliation procedure concludes with the drawing up of a record signed by the judge, the parties to the dispute, and the registrar, and is subject to the rules set out in Articles 990 to 993 of the Code of Civil and Administrative Procedure.

If the parties reach an agreement, the conciliation record becomes an enforceable instrument.

In practice, it is observed that material errors may occur in the conciliation record that has become an enforceable instrument—for example, an error in the agreed debt amount or a discrepancy between the amount written in words and in figures. This raises issues in the enforcement of this enforceable instrument, particularly if the discrepancy is substantial. The judge cannot correct it, and it is not subject to any appeal and acquires *res judicata* authority, rendering this enforceable instrument effectively useless, impossible to enforce, and resulting in the loss of the parties' rights.

Accordingly, it is proposed that the legislator insert an article in the Code of Civil and Administrative Procedure allowing the specialised commercial court to correct material errors that may affect the conciliation record that has become an enforceable instrument.

If the parties do not reach an agreement, the case is returned to the judge for adjudication.

In the event that conciliation fails, the claim is brought before the specialised commercial court by a statement of claim accompanied by the record of failed conciliation, on pain of the claim being dismissed on procedural grounds.

The specialised commercial court issues first-instance judgments appealable to the commercial chamber of the judicial council to which the specialised commercial court belongs.

The president of the specialised commercial court also exercises the powers conferred on the urgent applications judge to take interim or conservatory measures to preserve the rights that are the subject of the dispute, in accordance with the procedures set out in the Code of Civil and Administrative Procedure and special texts.

The specialised commercial court adjudicates the cases before it according to the procedures set out in the Code of Civil and Administrative Procedure, the Commercial Code, and special laws, issuing a judgment appealable to the commercial chamber of the judicial council to which the specialised commercial court belongs.

The Algerian legislator is criticised here for making appeals against judgments issued by the commercial division of the court and judgments issued by specialised commercial courts subject to the same judicial body—the commercial chamber of the judicial council—without establishing a separate appellate judicial body for judgments of specialised commercial courts. This contradicts the legislator's policy of establishing specialised judicial bodies to achieve quality in judicial rulings and consequently contribute to achieving judicial security (Saoudi, 2026).

Accordingly, it is proposed that the legislator establish a separate appellate judicial body for judgments of specialised commercial courts.

The Algerian legislator is also criticised for not requiring mandatory representation by a lawyer before the specialised commercial court, given the nature of the disputes assigned to it—disputes characterised by complexity requiring legal and technical expertise that the parties lack. This also leads to delays in proceedings, contradicting the characteristic of speed demanded by the commercial environment.

Accordingly, it is proposed that the legislator insert a legal provision in the Code of Civil and Administrative Procedure requiring mandatory representation by a lawyer before specialised commercial courts to contribute to achieving quality of judgments and judicial security.

Conclusion:

From this research, it is observed that the Algerian legislator has sought to adopt a legislative policy aligned with economic developments to achieve judicial security, ensure the quality of judicial rulings, strengthen confidence in the judicial authority, expedite dispute resolution, guarantee the proper and correct application of economic laws, provide judicial guarantees for investors, and attract capital. This has been pursued through the establishment of various commercial judicial bodies: one entrusted with resolving simple commercial disputes—the commercial divisions of courts—following simple procedures, while complex commercial disputes of an economic nature have been assigned to specialised commercial courts with special judicial procedures approved for them, thereby reinforcing the independence of the commercial judiciary from the civil judiciary.

The Algerian legislator also seeks to achieve specialisation in the judicial field to raise the standard of judicial work, both in terms of specialisation of judges and specialisation of

judicial bodies, in keeping with modern trends in Algerian judicial organisation, by establishing specialised judicial bodies to adjudicate complex commercial disputes requiring special technical and legal expertise for resolution (Saoudi, 2026).

Given the recent establishment of specialised commercial courts, it is not yet possible to judge their success in achieving judicial security. Nevertheless, some positive achievements of these courts cannot be denied, while certain deficiencies and negative aspects are also noted. To address these negative aspects, the following recommendations are proposed to the legislator when revising the Code of Civil and Administrative Procedure:

1. Amend Article 40 concerning the territorial jurisdiction of specialised commercial courts for bankruptcy and judicial settlement claims as follows: "Claims relating to bankruptcy and judicial settlement of companies shall be heard by the specialised commercial court within whose jurisdiction the place of bankruptcy opening or judicial settlement is located, or the place of the company's registered office."

2. Amend Article 40 concerning the territorial jurisdiction of specialised commercial courts for intellectual property claims to state: "Claims relating to intellectual property shall be heard before the specialised commercial court within whose jurisdiction the defendant's domicile is located."

3. Amend Article 536 bis to include disputes relating to commercial paper and disputes relating to business assets within the jurisdiction of specialised commercial courts.

4. Amend the final paragraph of Article 536 bis 2 of the Code of Civil and Administrative Procedure as follows: "In the event of the absence of two or more assistants, they shall be replaced by other assistants from the reserve list."

5. Insert an article in the Code of Civil and Administrative Procedure allowing the judge of the commercial division to correct material errors that may affect the mediation record approved by the court.

6. Insert an article in the Code of Civil and Administrative Procedure allowing the specialised commercial court to correct material errors that may affect the conciliation record that has become an enforceable instrument.

7. Establish a separate appellate judicial body for judgments of specialised commercial courts to achieve quality in judicial rulings and consequently contribute to achieving judicial security, expedite the resolution of appeals, and avoid the accumulation of appeals against judgments of the commercial divisions of courts subordinate to the council alongside appeals against judgments of specialised commercial courts before the commercial chamber of the council.

8. Insert a legal provision in the Code of Civil and Administrative Procedure requiring mandatory representation by a lawyer before specialised commercial courts to contribute to achieving quality of judgments and judicial security and expediting procedures.

9. Insert legal provisions regulating the method of paying the fees of the mediator before the commercial division and the person or expert whom the judge conducting conciliation before the specialised commercial court may seek to assist, or at least refer to the legal provisions regulating the method of paying expert fees.

10. Insert legal provisions to align litigation procedures before specialised commercial courts with electronic litigation, which the legislator seeks to establish.

Furthermore, the Algerian state must enhance the training of judges specialised in commercial matters, train the assistants who

contribute to the composition of the specialised commercial court, and provide that the mediator appointed by the commercial division be specialised in the subject matter of the dispute.

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- Law No. 08-09 of 25 February 2008 on the Algerian Code of Civil and Administrative Procedure.
- Law No. 22-13 of 12 July 2022 amending and supplementing Law No. 08-09 of 25 February 2008 on the Code of Civil and Administrative Procedure.
- Law No. 22-07 of 5 May 2022 on judicial division.
- Order No. 66-154 of 8 June 1966 on the former Algerian Code of Civil Procedure, as amended and supplemented (repealed).
- Organic Law No. 22-07 of 5 May 2022 on judicial organisation.

2 – Executive Decrees

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- Executive Decree No. 23-53 of 14 January 2023 defining the territorial jurisdiction of specialised commercial courts.
- Executive Decree No. 24-77 of 8 February 2024 defining the territorial jurisdiction of judicial councils and the courts subordinate to them, *Official Gazette* No. 11 of 2024.

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