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THE ROLE OF THE FRENCH CONSTITUTIONAL COUNCIL IN THE IMPLEMENTATION OF LAW

Implementation of law entails more than the formal enactment of legal norms - it also requires effective institutions capable of ensuring their practical enforcement and protection. Constitutional control plays the role of the most effective mechanism of protection of a person from power, is a means of ensuring fundamental (constitutional) rights and freedoms of man and citizen, a factor in the transformation of the Constitution into current law. In France, for example, this function is performed by the Constitutional Council (Conseil constitutionnel), established by the Constitution of the Fifth Republic in 1958. Although originally conceived as a political safeguard against legislative overreach, the Council's role was transformed into an influential mechanism of control over the observance of constitutional rights, especially after the introduction of the QPC procedure in 2008.

The Constitutional Council in accordance with Article 56 of the Constitution of France was established in order to ensure equilibrium between the branches of power and the prevention of parliamentary arbitrariness [1]. Its main powers are the preliminary control of the constitutionality of laws (contrôle a priori), the verification of organic laws, as well as the supervision of elections and referendums.

Unlike many constitutional courts, the Council is not part of the judicial system in the traditional sense but operates as a specialized constitutional oversight body. It is comprised of nine members who are appointed for nine-year terms by the President of the Republic and the presidents of each of the Houses of Parliament (National Assembly and Senate). However, the way they are elected at times raises concerns about the independence of the body itself, which was also stated in the article-review of The Constitutional Council's «Association La Sphinx» decision of 1 April 2022 [2].

A significant stage in the development of the function of the Constitutional Council as a rights-protecting institution was the constitutional reform of 2008, which introduced the mechanism of Question Prioritaire de Constitutionnalité (QPC) - a priority constitutional issue. The QPC allows any party involved in legal proceedings to challenge a law for violating a right or freedom guaranteed by the Constitution. The way it works is that, when a party argues that a law violates his or her constitutionally guaranteed rights or freedom, the court must immediately decide whether the question should be admitted. The criteria for a QPC to be admitted are that the challenged legislative provision must apply to the litigation, it must not have already been declared as constitutionally valid by the Constitutional Council, and the question must be novel but not frivolous. If the court admits the question, it then sends it to the supreme jurisdiction of its order. QPC has greatly expanded access to constitutional jurisdiction. Unlike the previous model, where only political authorities could apply, every natural or legal person can now be the initiator. This gave the Constitutional Council a true "judicial function" in the context of protection of rights [3]. Despite this, access to constitutional justice is still somewhat limited due to the need for preliminary consideration in courts of general jurisdiction, which complicate the initiation of the verification of law and therefore limits the prompt protection of rights.

However, it should be noted about the practice of the Constitutional Council in the field of human rights. The Council has repeatedly recognized discriminatory norms that contradict the principle of equality enshrined in the Constitution and the Declaration of Human Rights and Citizen of 1789. For example, in the Decision No. 2017-651 QPC of 31 May 2017 it resolved an unconstitutional election norm (Paragraphs II and III of Article L. 167-1 of the Electoral Code), which restricted the right to equal participation in the election of the political parties and groups depending on if they were represented by parliamentary groups in the National Assembly or not [4].

In the Decision No. 2018-717/718 QPC of 6 July 2018, the Council considered the case of criminalization of assistance to illegal migrants. It ruled: «...the words «illegal residence» as provided for in the first Subparagraph of Article L. 622-4 of the French Code on the Entry and Residence of Foreign Nationals and the Right to Asylum, in its drafting from Law number 2012-1560 of 31 December 2012 relating to retention to verify the right to residence and modifying the offence to provide assistance to illegal residents to exclude humanitarian and disinterested actions, are unconstitutional» and as a conclusion it violates the principle of fraternity defined in Article 2 of the Constitution.

In the Decision No. 2017-695 QPC of 29 March 2018, the Constitutional Council recognized unconstitutional provisions of articles L. 228-5, L. 229-1, L. 229-4-4 and L. 229-5 of the Code of Internal Security, which restricted the possibility of individuals to challenge the creation of administrative security areas-in particular, the provisions that prevented the provisions, which hindered the provisions of the Safety Guarantees. This decision has become important in the context of increasing the balance between state security and person's rights [5].

Summarizing, the Constitutional Council of France contributes to the exercise of law, ensuring not only the formal compliance of the laws of the Constitution, but also the practical protection of human rights. The QPC mechanism allowed citizens to more actively protect their rights by integrating constitutional control into daily jurisprudence. Thus, despite some shortcomings, this body has become an effective law enforcement tool, which combines regulatory control with real influence on the protection of a person.

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ДІЯЛЬНІСТЬ ПРАВООХОРОННИХ ОРГАНІВ У ПЕРІОД ВОЄННОГО СТАНУ

Правоохоронні органи – це державні установи діяльність яких спрямована на захист національної безпеки, забезпечення стану законності й правопорядку та на реалізацію інших законодавчо визначених функцій держави. Крім того, до завдань правоохоронних органів належить захист встановленого Конституцією