



The Lawyer's Rights under the Algerian New Code of Criminal ProcedureA Contemporary Analysis in Light of Modern Criminal Justice Trends

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Abstract:

In legal doctrine, the right to defense is viewed as inseparable from the act of accusation: wherever an accusation exists, so too does the right to defense, and justice cannot be achieved without it. This principle is firmly established in international agreements, various national constitutions, and relevant domestic laws.

In contemporary legal systems, this principle is increasingly interpreted in light of digital justice and procedural transparency, ensuring that technological tools do not undermine defense guarantees but rather enhance them.

There exists a close connection between the rights of the defense and the rights of the lawyer, as the right to defense is an inherent and original right of the accused. This is evident in the notification of charges, the right to legal assistance, and the right to present evidence.

Today, this connection extends to the lawyer's role in handling digital evidence and safeguarding procedural fairness in algorithm-assisted investigations.

On the other hand, the rights of the lawyer serve as a practical extension of the rights of the defense, providing the necessary professional tools for the accused to effectively exercise their right to defense. This understanding led the First President of the Court of Cassation in France during the reign of Louis XV to state: "The legal profession is as ancient as the judiciary, as noble as virtue, and as necessary as justice". Nowadays, these tools include access to electronic case files, participation in virtual hearings, and the ability to challenge automated decision-making processes in criminal justice systems.

To explore the rights of the lawyer under Law N°25-14 related to the Code of Criminal Procedure, we have organized this work into two primary sections. The first section addresses the rights of the lawyer during the inquiry and investigation phases, while the second section discusses the rights of the lawyer during the trial and execution phases, concluding with a summary that presents a series of findings and recommendation.

This analytical structure also allows for integrating comparative perspectives and assessing how Algerian reforms align with emerging global standards in digital and procedural justice.

Throughout, we situate Algeria's changes within international and comparative contexts (e.g., UN Basic Principles on Role of Lawyers, EU directives on defense rights) to show how the Code aligns with global fair-trial standards. The reform largely strengthens defense guarantees, yet certain limitations remain (for example, delayed access in terrorism-related cases). The conclusion offers recommendations for further harmonization with international norms and suggests areas for future empirical research on implementation.

key words: lawyer, rights, criminal procedure, code, guarantees, defense, professional tools,

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Introduction

In any criminal justice system, the right to a full and effective defence is essential to the rule of law. This right is “as necessary as justice itself,” recognizing that an accusation must be matched by the opportunity to defend.

This principle is increasingly linked to technological fairness, requiring that digital tools used in criminal justice respect equality of arms.

The criminal procedure system in Algeria is currently experiencing changes driven by various factors: some are related to societal security and stability, others pertain to individual rights, and still others focus on the necessity of achieving a procedural equilibrium between implementing new strategies to fight crime and upholding the principle of safeguarding individual rights and freedoms.

These reforms reflect a broader global trend toward balancing security with privacy rights, particularly in the context of surveillance technologies.

International human-rights treaties (such as Article 14 of the ICCPR) and the Algerian Constitution guarantee the accused’s right to counsel and fair trial. For that, in 2025, Algeria enacted Law N°.25-14 to update its Code of Criminal Procedure, aiming to balance new crime-fighting strategies with individual liberties.

These amendments reflect the 2020 Constitution’s enhanced emphasis on the presumption of innocence and the rights of defense. For example, the Code now codifies various procedural safeguards for suspects and litigants in criminal cases. These reforms also reflect a shift toward incorporating international best practices, including digital access to justice and procedural transparency.

These changes have been reflected, as above-mentioned, in the recent amendments to the Algerian Code of Criminal Procedure under Law N°.25-14, enacted on August 3rd, 2025, which includes the Code of Criminal Procedure. This includes enhancements to the rights of the defense, the introduction of new and effective mechanisms for crime prevention, and the establishment of alternative approaches to public prosecution and even to punishment itself.

These amendments were enacted to implement the constitutional principles outlined in the 2020 Constitution, particularly focusing on enhancing the presumption of innocence, solidifying fair trial guarantees, and expanding judicial oversight of the judicial police's activities.

The rights subject of the lawyer represents a crucial area through which we can assess the Code's effectiveness in reinforcing defense rights and ensuring fair trial guarantees.

The importance of examining this topic, both academically and in practically (applied), becomes evident as we analyze the legal dimensions of these rights and how they contribute to reinforcing the right of defense.

Throughout, we frame Algeria’s reform in light of global standards – for instance, noting where domestic practice now resembles the European Directive 2013/48/EU on defense rights or the UN Basic Principles on the Role of Lawyers. By integrating comparative and normative perspectives, we highlight both the progress and remaining challenges in securing justice.

This topic raises a fundamental **problematic** about the capacity of the Algerian legislator to strike an appropriate balance between safeguarding society’s security and stability and guaranteeing individual rights and freedoms align with contemporary trends in law. Accordingly, the central research question underpinning the study of lawyers’ rights under the new Code of Criminal Procedure is:

To what extent does Law N°. 25-14 effectively strengthen the rights of lawyers as instruments of defense within Algerian criminal proceedings, and to what extent do these rights reflect contemporary trends in criminal justice?

We seek to address this problematic by adopting both descriptive and analytical approaches, focusing on the rights of the lawyer at every phase of the public action, including the execution stage.

1. The Lawyer’s Rights during Inquiry and Judicial Investigation

The rights of the lawyer in the preliminary enquiries stage, as provided for by the Algerian Code of Criminal Procedure, are severely limited because of the inquisitorial nature of this stage, where confidentiality and success of police investigations are emphasized (Hazzit, 2018). The main rights are

the right to visit the suspect while he is detained after a certain period, such as 48 hours for regular offences or longer for serious offences such as terrorism (Algerian Code of Criminal Procedure, Art.85).

Furthermore, the legal representative has an opportunity to act and oppose to illegal investigative operations, and to insist on conformity with the norm of due process, including protection from illegal searches and coercion (Gross McGinley, 2023).

In many legal systems, there is also a right to acquire specific information relevant to the case and to seek investigation operations that can be favorable to the suspect, given certain procedural conditions (Swiss Criminal Procedure Code, Art.101). This list of rights seeks to strike a balance in the powers of prosecution bodies and to secure the principle of equality of arms in criminal proceedings.

Contemporary criminal procedure reflects a gradual shift from purely inquisitorial models toward systems that increasingly recognize adversarial elements and procedural safeguards. However, the preliminary inquiry stage remains characterized by limitations on defense participation due to confidentiality and efficiency considerations.

However, modern legal systems increasingly advocate for early defense involvement, especially where digital surveillance tools are used. This role now includes contesting unlawful digital searches, cyber investigations, and breaches of data privacy. This also reflects a global shift toward transparency and procedural equality, especially in complex cases involving digital evidence.

1.1 The Rights during the Preliminary Enquiries Stage

In contemporary legal systems, early access to legal counsel is considered a fundamental safeguard against coercion and procedural abuse. Although the Algerian system still imposes limitations, these rights reflect a gradual convergence with international standards emphasizing early-stage defense participation.

The rights of the lawyer during the preliminary inquiry phase are a major protective mechanism to ensure a fair trial by providing the effective protection of the suspect's procedural rights. During the preliminary inquiry phase, the lawyer has the right to be present during interrogations, counsel privately with the client, and offer guidance on the client's right to stay silent and the restriction on self-incrimination (Sakowicz, 2021; Liberal International, 2016).

Lawyers may also request a medical examination of the suspect (Art.86), challenge the validity of searches (Art.80), and file complaints against judicial police for abuses such as arbitrary detention (Djedidi, 2000).

In modern practice, this includes remote legal consultations and secure digital communication between lawyer and client. The increasing use of recorded interrogations and AI-assisted questioning requires enhanced defense oversight. These safeguards are now complemented by digital documentation systems that ensure traceability and accountability.

These limited safeguards aim to balance investigative efficiency with basic defense protections, though critics argue for broader access to prevent ill-treatment allegations (Zappala, 1997), compared with the other stages, and generally consist of the following:

1.1.1 The Right to Visit

In accordance with Article 85 of the Code of Criminal Procedure, a lawyer is permitted to meet with a suspect who is in police custody within a designated secure room that ensures both safety and confidentiality of their discussion. This visit is limited to a duration of thirty (30) minutes and is allowed only after the custody period has been extended by forty-eight (48) hours for ordinary offenses, as well as after half of the maximum custody period, which is ten days as stipulated in Article 83 of the same Code.

This means that the lawyer may not visit the person held in custody in cases of drug trafficking, transnational organized crime, offences related to information and communication technologies, money-laundering, terrorism, corruption and offences related to foreign exchange legislation except after the expiry of five days (Hazzit, 2018, pp.183-184).

On the other side, the right to visit remains restricted but reflects a transitional approach between traditional secrecy and modern demands for early legal assistance. Contemporary reforms globally advocate immediate access to counsel to prevent violations of fundamental rights.

Modern reforms advocate for immediate and even virtual access to counsel to prevent procedural violations at early stages.

1.1.2 The Right to Request Medical Examination of the Suspect

The Algerian legislator has granted the suspect held in police custody, or his lawyer, the right to request a medical examination of the suspect, either before the judicial police or before the public prosecutor.

If such a request is made, the medical examination must be carried out by a doctor chosen by the person held in custody from among the practising physicians within the jurisdiction of the court, provided this is done after the expiry of the time-limits for custody. This is stipulated in Article 86 of the Code of Criminal Procedure (Djedidi, p.13).

Today, digital health records and forensic technologies enhance the reliability and traceability of such examinations.

Generally, this right aligns with modern human rights standards aimed at preventing torture and ill-treatment, reinforcing the lawyer's role as a safeguard against abuses during detention, and now this is extending by AI.

1.1.3 The Right to Plead Nullity of Search Procedures

The Algerian legislator has granted the lawyer the right to plead the nullity of search procedures when the legal conditions are not respected, such as the need to obtain prior authorization from the public prosecutor or the investigating judge, the presence of the individual suspected of having committed the felony or misdemeanor during the search procedure, and respect for the time limits prescribed by law to carry out the search.

This is stated in Article 80 of the Code of Criminal Procedure. The plea of nullity is one of the essential pleas to which the court must reply; otherwise, the decision would be deemed to lack reasoning and thus liable to annulment (Edward, pp.431-432).

The recognition of procedural nullities reflects contemporary emphasis on legality and judicial control over investigative powers, ensuring that evidence is obtained lawfully, which is a doctrine increasingly emphasized in international criminal procedure.

In modern law, Lawyers may challenge unlawful searches. This right increasingly applies to digital searches, including unlawful access to electronic devices and data.

1.1.4 The Right to File a Complaint against the Judicial Police Officer

Since arbitrary detention and torture are offences punishable under Algerian law in Articles 107, 263 bis and 263 bis 1 of the Criminal Code, the lawyer has the right to file a complaint against the judicial police officer who commits any of these acts against his client, the suspect.

Nowadays, Lawyers may file complaints against abuses. This includes complaints related to misuse of surveillance technologies or algorithmic profiling.

Lodging complaints for arbitrary detention or torture may include misuse of facial recognition or data breaches.

1.2 The Rights of the Lawyer before the Public Prosecutor

The rights of the lawyer in relation to the Public Prosecutor are an integral part of the right to defense, which provides for the prosecution to ensure the maintenance of procedural justice during the prosecution phase. The defense lawyer's rights include the ability to support the accused, interact with the prosecutor, make arguments or motions in support of the accused, which include opposing the prosecution or evidence, in the interests of the accused (Justia, 2025; Preuss, 2022).

In addition, the defense lawyer has the right to access information that is pertinent to the case file, as well as ensure the prosecution complies with the law and due process. On the other hand, the prosecutor has the duty to inform the accused of the right to defense counsel, as well as disclose information that is beneficial to the accused, thus enhancing the defense lawyer's rights (Nebraska Judicial Branch, 2023).

Thus, it is evident that, due to the privileges accorded to the lawyer, they are instrumental in maintaining the balance between the prosecution and defense, which is in line with the principle of equality of arms.

In contemporary justice, Lawyers play a key role in ensuring procedural justice before the prosecutor. Digital case management systems now allow lawyers to interact more efficiently with prosecutorial authorities.

These integrate defense with prosecutorial digital justice, enabling arguments, file access, and compliance checks amid AI case prioritization.

1.2.1 Right to be Present before the Public Prosecutor during Interrogation

Lawyers are also provided with additional rights before the public prosecutor, especially for flagrante delicto felonies, to be present and to make oral observations with the permission of the prosecutor (Algerian Code of Criminal Procedure, Art.92). The lawyer may also request the application of the prior admission of guilt, including a response period of five days with access to the file (Mohammed, 2025).

The additional rights provided to the lawyer are to assist legal persons with deferred prosecution responses, to be present for mediation for minor offenses, and to be present for immediate appearances (Mohamed Salah, 2013). The additional rights provided to the lawyer are included in Law 25/14, strengthening the defense and providing for prosecutor oversight (Fellah & Bekhairi, 2025).

The lawyer may be present with the suspect when he is interrogated by the public prosecutor, especially for flagrante delicto felonies. The provision is included in Article 92 of the Algerian Code of Criminal Procedure.

In contemporary trends of law, virtual hearings and digital recordings enhance transparency but require safeguards for confidentiality.

1.2.2 The Right to Request the Application of the Procedure of Appearance upon Prior Admission of Guilt

The Algerian legislator has given the right to the lawyer to request the public prosecutor to apply the mode of appearance according to the pre-admission of guilt. The legislator has given the right to the lawyer to request a period to respond to the proposed penalty given by the public prosecutor, in which case he will be given a period of five (05) days to respond, during which he will be given a copy of the case file and allowed to communicate freely with the accused if he is detained during the period given to consider the proposed penalty (Mohammed, pp.722-723).

In modern additions to law, this reflects global trends toward efficiency and plea-bargaining systems supported by digital case processing. Also, Response with digital file copy and free communication as a mechanism reflects modern trends toward negotiated justice and efficiency, similar to plea bargaining systems.

1.2.3 The Right to Present Observations before the Public Prosecutor

The new Code of Criminal Procedure N^o.25-14 has given the lawyer a new right that he did not enjoy before the promulgation of this law, which is the possibility for the lawyer to make oral observations during the interrogation of the suspect by the public prosecutor, with the latter's authorization and under his supervision. This is considered a consecration and reinforcement of the right of defense, as stipulated in Article 92 of the Code of Criminal Procedure.

Lawyers may present oral observations, thus, in modern law, this participation strengthens adversarial proceedings, including in cases involving algorithm-based evidence.

The shift toward participatory justice and reinforces the principle of equality of arms is vital and could be for contesting AI preliminary findings.

1.2.4 The Right to Assist the Legal Representative of a Legal Person in Responding to a Proposal to Conclude a Deferred Prosecution Agreement

The Algerian legislator has granted the right to the lawyer to assist the legal representative of the legal person in reacting to the proposal to conclude an agreement of deferred prosecution concerning a private-law legal person implicated or participating in one of the offences established by the law. This reaction must be done within one month from the date of the proposal made by the public prosecutor.

1.2.5 The Right to be Present during Mediation Procedures

The legislator has granted the lawyer the right to attend the mediation procedures conducted by the public prosecutor to resolve disputes in minor offences specified in Article 61 of the Code of Criminal Procedure, such as insult, defamation and breach of trust (Mohammed Salah, p.85 and beyond).

In criminal mediation, where the aim is to establish an agreement and avoid a trial, it is the right of the victim and offender to have a lawyer for legal assistance. The lawyer will offer them support, and it will be

ensured that they have protected their rights and have entered into an agreement voluntarily and freely (Service-Public, n.d.; Zouba, 2024).

Moreover, having a lawyer will enable them to check if the procedures are legal, help them throughout the process, and maintain equality between them, especially considering it is a voluntary process (Doneva & Gjorgieva, 2023). This right of having a lawyer is in compliance with a modern approach to restorative justice while maintaining basic defense rights.

These provisions promote restorative justice by facilitating amicable settlements prior to formal prosecution, thereby alleviating judicial burdens while protecting victims' interests (Raham, 2024, p.112). Successful mediation suspends public action, underscoring the prosecutor's discretionary role under Article 37 bis (Zouba, 2025) and ensuring voluntary digital agreements also protect rights from its part.

1.2.6 The Right to be Present with the Suspect before the Public Prosecutor

The Algerian legislature has allowed the lawyer the ability to accompany the suspect when he appears before the public prosecutor. The lawyer is entitled to give his remarks, with the approval and under the direction of the public prosecutor, and to have these included in the immediate appearance report. Additionally, the lawyer is entitled to get a copy of the proceedings and to speak freely with the accused, in accordance with Articles 480 and 481 of the Code of Criminal Procedure.

1.2.7 The Right to Alert the Public Prosecutor to the Need to Fix a Hearing Date for the Accused in Case of Flagrante Delicto Procedures

The Algerian legislator has provided the right to alert the public prosecutor to fix a date for the hearing of the trial of the suspect within a period not exceeding five (05) days if the public prosecutor has chosen the flagrante delicto procedure and failed to fix a date.

1.2.8 The Right to Challenge an Order of Dismissal (Filing of the Case)

In accordance with paragraph 07 of Article 47 of the Algerian Code of Criminal Procedure, the Algerian legislator has allowed the complainant or his legal representative to dispute, on legal grounds or factual grounds such as a lack of evidence or unknown perpetrator, the dismissal decision adopted by the public prosecutor, before the public prosecutor-general, within five days from the date on which the complainant was notified of such a decision.

1.3 The Rights of the Lawyer during Judicial Investigation

The rights of the lawyer during the judicial investigation stage constitute a central safeguard of the right to defence, particularly before the investigating judge, thereby ensuring respect for legality and due process (Sakowicz, 2021, pp.1985–1987; Yusefalizadeh, 2025, p.6).

During the judicial investigation phase under the Algerian Code of Criminal Procedure, lawyers possess extensive rights before the investigating judge, including mandatory attendance at all interrogation, investigation, and confrontation sessions (Art.115 et seq.; Belhcen, 2023, p.105), appeals against judicial orders lie to the Indictment Chamber within specified deadlines (Art. 268), ensuring robust defense oversight (Khadija & Abdel-Rahman, 2022, pp.357–358).

Nowadays, Lawyers enjoy broader rights before the investigating judge; and these rights can increasingly be exercised within digitalized judicial environments requiring new competencies.

Studying the rights of the lawyer during the judicial investigation stage requires examining his rights before the investigating judge and before the Indictment Chamber.

1.3.1 The Rights before the Investigating Judge

The rights of a lawyer when presenting before the investigating judge are crucial for ensuring a fair trial. The defense counsel has the right to help the accused, be present during questioning, and guarantee that all legal procedures are followed. The attorney is entitled to analyze the case materials, request inquiries, and oppose any unlawful activities to defend the principle of equal opportunity (Sakowicz, 2021, pp.1985–1986; Ostavciuc, 2022, p.45)

Accordingly, these rights transform the defense from a passive role into an active participant in the search for truth and the protection of individual rights, thus, Before the investigating judge, the defense lawyer has the right to be present with the accused, to consult in private, and to assist the client at investigative and detention-review hearings, in line with Directive 2013/48/EU and its national implementations

(Dzierżanowska, 2020, pp.111–113; European e-Justice Portal, 2024; Human Rights Guide, 2023), all collectively preserve an adversarial balance and prevent a one-sided investigation.

Technically, as lawyers participate actively in investigation procedures,

their role now may include analyzing technical and digital evidence and ensuring procedural fairness.

First: The Right to Attend at Investigation, Interrogation and Confrontation Sessions with the Accused

The lawyer may attend with the accused all investigation sessions before the investigating judge, whether they are general investigation sessions, interrogation sessions or confrontation sessions. This is stipulated in Article ... of the Code of Criminal Procedure (Djouad, 2008, p.176)

Second: Right to Submit Questions to the Investigating Judge for Anonymous Witnesses, before or during their Hearing

The Algerian legislator has allowed the lawyer to submit to the investigating judge, before or during the hearing of the anonymous witness, the questions he wishes to put to that witness. This is stipulated in Article 134 of the Code of Criminal Procedure.

Third: Right to Request a Medical or Psychiatric Examination of the Accused

The Algerian legislator has granted the accused or his lawyer the right to request a medical or psychiatric examination before the investigating judge. If such a request is made, the examination must be carried out by a doctor chosen by the investigating judge. If the investigating judge refuses the request for a medical or psychiatric examination, the refusal must be based on a reasoned decision. This is stipulated in the last paragraph of Article 141 of the Code of Criminal Procedure.

Fourth: Right to Obtain a Copy of the Procedural File

The investigating judge records all investigative measures taken to uncover the truth—whether incriminating or exculpatory evidence—in minutes, and the lawyer has the right to obtain a copy of these procedures unless the investigating judge decides otherwise, such as when the results of the procedures are not yet ready for adversarial discussion. This is provided for in Article 142 of the same Code (Belhoucine, 2023, p.105)

Fifth: Right to Request the Taking of the Accused's Statements, the Hearing of a Witness, or an on-Site Inspection

The Code of Criminal Procedure grants the lawyer the right to request that the investigating judge hear the accused, hear a witness or conduct a confrontation between the parties at any stage of the investigation. If the investigating judge fails to decide on these requests, they are submitted directly to the Indictment Chamber within ten (10) days from the expiry of the period set for ruling on them, which itself is ten (10) days. This is stipulated in Article 144 of the same Code.

Sixth: Right to Present Oral Observations before the Investigating Judge at the First Appearance

The new Code of Criminal Procedure N^o.25/14 has granted the lawyer a new right that he did not enjoy before the promulgation of this law, namely the possibility of making oral observations during the first appearance interrogation of the accused by the investigating judge, with the authorization and under the supervision of the judge. This constitutes a strengthening and consolidation of the right of defense. These observations must be recorded in the minutes or attached thereto, even if they are rejected by the investigating judge. This is provided for in Article 175 of the same Code.

Seventh: Right to Contact the Accused in Pre-Trial Detention

The lawyer has the right to visit the accused placed in pre-trial detention by order of the investigating judge, freely and without any restriction. Under no circumstances may the lawyer be prevented from visiting his client, even if the investigating judge decides to prohibit the detained accused from receiving visits from certain specified persons. This is stipulated in Article 177 of the same Code.

Eighth: Right to be Informed of Investigation Session Dates

The Code of Criminal Procedure obliges the investigating judge to notify the lawyer of the dates of investigation sessions at least two days in advance and to provide him with a copy of the procedural file at least twenty-four (24) hours before the session, pursuant to Article 180 of the same Code.

Ninth: Right to Request Lifting of Judicial Supervision

The law grants the lawyer the right to request the lifting of judicial supervision imposed on the accused before the investigating judge. If the investigating judge does not decide on this request within fifteen (15) days, the request is submitted directly to the Indictment Chamber, which must decide on it within twenty (20) days from the date it receives the request, as stipulated in Article 199 of the same Code.

Tenth: Right to Request the Release of the Accused

The law grants the lawyer the right to request the release of the accused before the investigating judge at any time during the investigation. If the investigating judge does not decide on this request within eight (08) days from the date the file is sent to the public prosecutor, the request is submitted directly to the Indictment Chamber, which must rule on it within thirty (30) days from the date it is seized. This is stipulated in Article 208 of the same Code.

Eleventh: Right to Request the Appointment of an Expert

The Code of Criminal Procedure grants the lawyer the right to request the appointment of an expert before the investigating judge at any stage of the investigation, if he finds that resolution of the case requires the intervention of specialized expertise, particularly where the facts involve technical matters. If the investigating judge does not decide on this request within ten (10) days, it is submitted directly to the Indictment Chamber within ten (10) days from the expiry of that period, and the Chamber has twenty (20) days to rule on the request. This is stipulated in Article 239 of the same Code (Amara, 1998, p.337).

Twelfth: Right to Request Nullification of Hearing Procedures

If the investigating judge does not respect the rules governing the hearing of the accused—namely verifying his identity, informing him of the facts attributed to him and the charge brought against him, warning him of his right to remain silent and of his right to the assistance of a lawyer (Khedidja, pp.357-358), and recording in the minutes the observations made by the lawyer present with the accused or attaching them thereto even if rejected, or if the judge fails to comply with the rules for hearing the victim or civil party—the lawyer may request the nullification of the hearing procedures before the Indictment Chamber, which will declare them null and void together with the subsequent procedures. This is stipulated in Article 253 of the same Code.

Thirteenth: Right to be Notified of Judicial Orders

The lawyer has the right to be notified of all judicial orders issued by the investigating judge within twenty-four (24) hours, by registered letter. This is stipulated in Article 264 of the same Code.

Fourteenth: Right to Appeal Orders of the Investigating Judge

The lawyer has the right to appeal orders issued by the investigating judge, such as orders imposing judicial supervision, orders for pre-trial detention, orders subjecting a legal person to measures, orders refusing to hear a witness or to conduct a confrontation, orders refusing release, etc. This is done by means of a request submitted to the Indictment Chamber within three (03) days of notification of the order, as stipulated in Article 268 of the same Code.

1.3.2 The Rights before the Indictment Chamber

The rights of the lawyer in front of the indictment chamber (chambre d'accusation) is one of the cornerstones in the effective control by the judiciary over the investigation, as the defense counsel has the right to submit written observations and oral arguments, as well as the right to raise objections to the sufficiency of the evidence for the committal of the accused for trial. The right of access to the case file and the right to raise objections to the irregularity of the procedure are provided in order to protect the legality of the investigative stage and the rights of the accused (e-Justice Portal, 2024; Goldwin, 2025)

Moreover, the chamber must ensure the accused has enough time and access to the file in order to mount an effective defense, which may even include the possibility of submitting written observations on the indictment (Ilić, 2023, p.150). The defense lawyer may ask the chamber dealing with the indictment to order further investigation, to confirm or lift provisional measures, or to limit the scope of the charges in order to protect the accused's right to a fair trial (Turmo, 2020, pp.1248-1249). These rights collectively ensure the accused has procedural equality before the confirmation of the charges.

In contemporary criminal law, lawyers may submit observations and challenge evidence and in this stage since it is crucial, reviewing complex cases involving technological evidence and ensuring judicial control is important.

First: Functions of the Indictment Chamber in Algerian Law

The Indictment Chamber is a second-level investigating body in criminal matters in Algeria. It rules on all appeals against the orders of the investigating judge (pre-trial detention, release, no-case ruling, etc.), and has the power to take up the merits of the case itself by ordering supplementary or additional investigation.

The chamber may lay a new charge that was not included in the indictment list or add new accused persons. It also has the power to reclassify the facts, such as reclassifying a felony as a misdemeanor—for example, reclassifying the offence from felony of theft with the aggravating circumstances of night, plurality of offenders and breaking in, to the misdemeanor of theft and referring the case to the Misdemeanor Court. It also has the power to issue the committal order to the Criminal Court (Yahia & Ahmed, 2022, p.442).

It thus constitutes the transitional or intermediate phase between investigation and trial and is of great importance in protecting the rights of the defence. The lawyer therefore plays a very important role and enjoys many rights before it.

Second: The Rights Enjoyed by the Lawyer before the Indictment Chamber

a- The Right to be Notified of the Hearing Date of the Indictment Chamber

The public prosecutor-general must notify the lawyer of the date on which the case concerning his client will be heard by the Indictment Chamber by any means of communication. This can be inferred from Article 278 of the same Code.

b. The Right to Attend before the Indictment Chamber

The lawyer may attend the session held by the Indictment Chamber to examine his client's case and may also be present with his client if the Chamber decides to summon the accused personally. This is stipulated in Article 280 of the Code of Criminal Procedure.

c. The Right to Present Oral Observations

The legislator did not limit itself in Article 280 to granting the lawyer the right merely to be present before the Indictment Chamber; rather, it also granted him the right to present oral observations in support of the requests submitted in defence of his client's rights.

d. Right to Submit Written Memoranda

In the context of strengthening the rights of the defense, the Algerian legislator has allowed the lawyer to file defense memoranda with the registry of the Indictment Chamber up to the date fixed for the hearing. The registrar of the Indictment Chamber must endorse them and indicate the date and time of their filing. This is stipulated in Article 279 of the same Code.

e. The Right to Request the Release of his Client

The lawyer may request the release of the accused held in detention before the Indictment Chamber if the case has already been the subject of a committal order to the Criminal Court but before the opening of the assize session.

f. The Right to be Notified of the Operative Part of the Indictment Chamber's Decisions

The law grants the lawyer the right to be notified of the decisions issued by the Indictment Chamber by registered letter within three (03) days, pursuant to Article 297 of the same Code.

2. The Rights of the Lawyer at the Stages of Trial and Execution

Generally, Lawyers possess fundamental rights throughout the trial and execution phases to ensure fair representation and justice. These include the right to access case materials, present evidence, and advocate for their clients without undue interference (Smith, 2020, pp.134-135). Additionally, lawyers must be protected from intimidation or retaliation during proceedings (Jones, 2018, p.89). Upholding these rights is critical for maintaining the integrity of the legal process (Brown, 2019, p.45).

Now, fundamental trial and execution rights encompass AI evidence challenges and virtual proceedings in various legal systems, thus, modern trials increasingly involve digital evidence, virtual hearings, and AI-assisted judicial tools.

2.1 The Rights of the Lawyer at the Trial Stage

In Algerian criminal procedure law, lawyers enjoy robust rights throughout trial stages, including mandatory presence during suspect interrogations by judicial police (Articles 83-85) and the right to

review investigation records (Article 27). During judicial investigation before the investigating judge, counsel must be present for all interrogations of the accused, victims, or civil parties (Article 180), with access to the file 24 hours prior and authority to request expert examinations or witness hearings (Articles 142, 144, 175).

At trial, lawyers participate in witness examinations, expert discussions, and pleadings (Articles 309 et seq.), and may appeal judgments via cassation (Articles 266-271). In execution phases, they advocate for sentence enforcement delays or reductions under supervisory oversight (Articles 416-418), this right, in modern law, the rise of remote hearings requires ensuring effective participation and equality between parties.

2.1.1 Rights of the Lawyer before the Criminal Court (Court of Assizes)

The lawyer enjoys a number of rights before the Criminal Court. These rights nowadays include challenging digital evidence and ensuring fairness in technologically supported trials.

In Algerian procedural law, they can be summarized as follows:

First: Rights of the Lawyer during the Preparatory Procedures for the Criminal Court Sessions

a. Verifying that a Lawyer has been Appointed to Defend the Accused

In the preparatory procedures, at least eight (08) days before the opening of the assize session, the presiding judge of the first-instance Criminal Court interrogates the accused charged with a felony who has been referred to the Criminal Court and whose case-file is ready to be decided at that session.

The judge verifies his identity, ensures that he has received a copy of the committal order, and asks whether he has chosen a lawyer to defend him. If he has not, the presiding judge appoints a lawyer to defend him (Henia, 2014, p.261). In the event of an appeal, the presiding judge of the appellate Criminal Court performs the same verification and, if necessary, appoints a lawyer ex officio. This is stipulated in Article 407 of the Code of Criminal Procedure.

b. Visiting the Detained Accused

The lawyer has the right to communicate freely with his client who is detained and will appear before the Criminal Court, so that he can show him the documents in the file, discuss the facts with him, and review the evidence for and against him in order to prepare a defense strategy. This is provided for in Article 408 of the same Code.

c. The Right to Obtain the Case-File

The lawyer has the right to obtain all documents in the case-file relating to the accused at least five (05) days before the trial hearing, so that he can visit his client and show them to him. This is stipulated in Article 408 of the same Code.

d. Request to Take Additional Investigative Measures

Under Article 412 of the Code of Criminal Procedure, if the lawyer considers that the investigation has been insufficient or that new matters have emerged after the committal order was issued, he may request the presiding judge of the Criminal Court to take any additional investigative measure (Tidjani, 2015, p.102 and beyond).

Second: The Rights of the Lawyer at the Opening of the Criminal Court Session

a. The Right to Challenge (Strike) Jurors

Under Article 395 of the Code of Criminal Procedure, the first-instance and appellate Criminal Courts in Algeria are composed of five (05) members: three judges and two jurors, except in cases relating to drug offences or smuggling, where the court is composed solely of judges. The jurors who sit alongside the judges are selected by lot by the presiding judge. The lawyer may challenge (strike) three jurors. This is stipulated in Article 420 of the Code of Criminal Procedure.

b. The Right to Appeal the Decision Amending the List of Jurors

The lawyer has the right to file an appeal in cassation against the judgment amending the list of jurors following proof of a juror's death, loss of a qualification condition or insanity, together with the appeal against the judgment on the merits.

c. The Right to Summon Witnesses before the Criminal Court

Witnesses are summoned at least three (03) days before the opening of the hearing, after the public prosecution, the victim and the civil party have been notified of the list of witnesses, pursuant to Article 420 of the same Code.

d. The Right to Challenge the Preparatory Procedures of the Assize Session

The lawyer may challenge the preparatory procedures of the assize session by means of written memoranda filed before the start of the pleadings. The Criminal Court, sitting without the participation of the jurors, must rule on these challenges, as stipulated in Article 426 of the same Code.

Third: The Rights of the Lawyer during Pleadings before the Criminal Court

a. Mandatory Representation by a Lawyer

Representation of the accused by a lawyer before the Criminal Court is mandatory. If the lawyer does not attend to assist the accused at the hearing, the presiding judge of the Criminal Court must appoint a lawyer ex officio. This is provided for in Article 428.

b. The Right to Request Adjournment of the Case

The lawyer may request the Criminal Court to adjourn the case to the end of the session or to a subsequent session if there are serious reasons justifying postponement, such as preparing the defence, summoning a witness who failed to appear, or bringing in co-accused who are in detention and were previously tried for the same acts. The decision remains at the court's discretion. This is provided for in Article 438 of the same Code.

c. The Right to Submit Questions

The legislator has granted the lawyer the right, with the authorisation and under the supervision of the presiding judge, to put questions directly to any person heard at the hearing. This is stipulated in Article 424 of the same Code.

d. Right to Request the Compulsory Appearance of a Witness who Failed to Attend

The legislator has granted the lawyer the right to request that a witness who failed to appear at the trial be brought by force (compulsory appearance). This request is submitted to the court, which has the power to grant or refuse it. This is provided for in Article 434 of the same Code.

e. The Right to Request Production of Exhibits (Evidentiary Objects)

The law grants the lawyer the right to request the production of evidentiary objects, seizure reports or confessions relating to these objects and to have them displayed at the hearing to the accused and the other parties, such as witnesses and experts, if present, so that they can be discussed in adversarial proceedings. This is stipulated in Article 437 of the same Code.

f. The Right to a Break (Rest)

If the hearing continues for many hours and the lawyer feels tired and exhausted, he may request the presiding judge of the Criminal Court to suspend the hearing for a rest period so that he can complete the session in a better condition, which helps him to fulfil his duties in defending his client more effectively, as provided in Article 421 of the same Code.

g. The Right to Plead

Pleading is one of the most important tasks the lawyer performs for his client. Through it, he presents his lines of defense, which include legal arguments relating to the discussion of legal issues, such as analyzing the facts and matching them to the legal provisions under which the accused is prosecuted, and substantive arguments relating to the discussion of evidence, both incriminating and exculpatory, seeking to tip the balance in favor of exculpatory evidence.

2.1.2 The Rights of the Lawyer before the Misdemeanor and Contravention Court

First: Right to be Present with the Accused before the Misdemeanor Court

Under Algerian law, the presence of a lawyer with the accused in misdemeanor cases is not mandatory, and the accused may choose whether or not to be assisted by a lawyer. Thus, the accused may defend himself before the Misdemeanor Court.

Nonetheless, the law grants the lawyer the right to appear with the accused before the misdemeanor and contravention courts to defend him whenever he is appointed by the accused, except where the accused suffers from a natural disability that impairs his ability to defend himself, in which case the presence of a lawyer is mandatory.

This is stipulated in Article 501 of the same Code. The lawyer may also attend with a sick accused who is unable, for health reasons, to appear before the court at his home, in a health institution or in a penal institution during his interrogation, pursuant to Article 500 of the same Code.

In digitalized justice, lawyers may represent or assist the accused via simplified and digitalized procedures in minor cases but these require maintaining procedural guarantees and safeguards.

As lawyers may challenge decisions and oversee enforcement, technically, digital appeal systems and electronic filing procedures enhance access to justice but require cybersecurity safeguards.

Second: Right to Request Adjournment of the Case in the Absence of the Accused

Under Article 495 of the new Code of Criminal Procedure No. 24/15, the Algerian legislator has granted the lawyer the right to request adjournment of the case even where the accused is absent, provided he submits justifications for the accused's absence. This was not allowed before the promulgation of this law.

Third: Right to Represent the Accused before the Misdemeanour Court

The lawyer may represent the accused before the Misdemeanour Court if the pleadings relate solely to civil rights, meaning that the presence of the accused is not necessary in this case. This is confirmed by Article 498 of the new Code of Criminal Procedure.

Fourth: Visiting the Detained Accused

The lawyer has the right to communicate freely with his client who is detained and will appear before the Misdemeanor Court, so that he can show him the documents in the file, discuss the facts with him, and review the incriminating and exculpatory evidence in order to prepare a defense strategy. This is pursuant to Article 408 of the same Code.

Fifth: Right to Plead

Pleading is one of the most important tasks the lawyer performs for his client, through which he presents his arguments. These include legal arguments concerning the discussion of legal issues and the matching of the facts with the applicable legal provisions, and substantive arguments concerning the discussion of incriminating and exculpatory evidence, in an effort to give preference to exculpatory evidence.

Sixth: Right to File Final Written Submissions

The law permits the lawyer to file final written submissions at the hearing. The presiding judge and the registrar must endorse them, and the court is obliged to respond to the issues raised in these submissions. This is stipulated in Article 502 of the Code of Criminal Procedure, and has been affirmed by the Supreme Court in numerous decisions, including the decision of the Misdemeanors and Contraventions Chamber of the Supreme Court dated 30/01/2020, case no.0848788, which laid down the following principle: "Failure to consider the accused's defenses constitutes a violation of the constitutionally enshrined rights of the defense".

The Supreme Court stated: "Upon examining the contested decision, it appears that the Court of Appeal judges did not refer to the defense memorandum contained in the case-file and did not examine it. The failure of the Court of Appeal judges to give legal effect to a defense memorandum and final submissions ... amounts to an omission and deficiency affecting the constitutionally enshrined rights of the defense ..." (Supreme Court decision, 30/01/2020, case no.0848788).

Seventh: The Right to the Last Word

After the completion of the investigation at the hearing, the victim and the civil party are given the floor to present their requests, followed by the submissions of the public prosecution and then the defense of the accused. The other parties may respond to the accused's defense, but the last word always belongs to the accused. This is provided for in Article 350 of the same Code.

2.2 The Rights of the Lawyer after the Judgment is Issued

Once the verdict is delivered, the attorney possesses considerable power to protect the interests of the client, especially by filing appeals, managing enforcement processes, and making certain that legal directives are executed properly (Directorate for Legal and Administrative Information, 2023). To uphold procedural fairness, the attorney may contest or pause enforcement based on legal grounds and represent the client in courts dealing with enforcement or appeals (European e-Justice Portal, 2024). Additionally, the attorney is empowered to take any necessary legal measures—such as starting or

disputing execution procedures—to guarantee that the verdict is properly enforced (Ministry of Justice (Algeria, n.d).

2.2.1 The Right to Challenge Judicial Decisions

In Algerian law, lawyers hold the explicit right to challenge judicial decisions as part of their core professional duties as a fundamental guarantee of justice, enabling appeals or reviews of unfavorable rulings to correct legal or procedural errors before higher courts (Lawyers & Jurists, 2011, p. 1; SGT Lawyer, 2024, para.3).

This allows counsel to contest misapplications of law or due process violations, subjecting decisions to necessary scrutiny (Sphere of Law, 2024, para.6). Appellate mechanisms thus serve as essential safeguards, promoting fairness and the rule of law by enabling structured reversals of unjust judgments (CPL), 2023, para.33).

First: Right to Exercise Remedies

Under the Code of Criminal Procedure, the lawyer may exercise all types of remedies, whether ordinary—such as opposition (objection) and appeal—or extraordinary—such as cassation, retrial (reconsideration) and correction of decisions—in respect of judgments and decisions issued by criminal courts of all levels.

Second: Right to Represent his Client in Filing Opposition against Judgments Rendered in Absentia

Under the new Code of Criminal Procedure, the lawyer may file opposition (objection) against judgments and decisions rendered in absentia on behalf of his client, provided the latter is not the subject of an arrest warrant. This is stipulated in Article 579 of the Code of Criminal Procedure.

Third: Right to Challenge the Notification of a Judgment Rendered in Absentia

In principle, the time-limit for opposition to a judgment rendered in absentia is ten (10) days from the date the judgment is served at the domicile, the seat of the municipal popular council or the prosecution office. However, this time-limit does not begin to run until the day the accused is informed of the conviction if the accused's lawyer challenges the notification procedure and provides an acceptable excuse. This is stipulated in Article 582 of the same Code.

Fourth: Right to Present Oral Observations before the Supreme Court

As a rule, cassation proceedings are conducted in writing. However, the law permits the lawyer to make brief oral observations during the hearing before the cassation court. This is provided for in Articles 677 and 679 of the same Code.

Fifth: Right to Lodge a Petition for Correction of Decisions Issued by the Supreme Court

The law grants the lawyer, and no one else, the right to petition the Misdemeanors and Contraventions Chamber or the Criminal Chamber of the Supreme Court to correct decisions issued by the Supreme Court, by means of a written petition signed by a lawyer admitted to plead before the Supreme Court. This is stipulated in Article 690 of the same Code.

2.3 The Rights of the Lawyer during the Execution of the Sentence

Before the promulgation of the new Code of Criminal Procedure N°25-14, the role of the lawyer during the execution stage of the sentence was very limited. However, with the entry into force of this law and the creation of judicial bodies responsible for adjusting custodial sentences during the execution stage, replacing the former system of the “judge responsible for the execution of sentences”, the lawyer has acquired an important role as an assistant to the judiciary.

Studying the rights of the lawyer during the execution stage requires examining, first, the judicial bodies responsible for the execution of sentences and, second, the lawyer's rights before these bodies.

From the side of modernization of criminal justice to fit the modern trends, new technologies such as electronic monitoring raise legal questions about privacy and proportionality.

2.3.1 Judicial Bodies Responsible for the Execution of Sentences

The new Code of Criminal Procedure N°25-14 has created judicial bodies responsible for the execution of sentences, which were previously within the jurisdiction of the judge responsible for the execution of sentences under the old law. These bodies are:

✓ A division called the “Sentence Execution Division” at the court of the seat of the judicial council, responsible for adjusting custodial sentences during their execution.

✓ The Sentence Execution Chamber at the judicial council, which rules on appeals against judgments issued by the Sentence Execution Division.

2.3.2 The Rights of the Lawyer before the Judicial Bodies Responsible for the Execution of Sentences

First: Right to Seize the Judicial Bodies Responsible for the Execution of Sentences

The legislator has granted the lawyer the right to seize the judicial bodies responsible for the execution of sentences by means of a written, signed petition concerning all requests relating to the adjustment of custodial sentences, such as requests for conditional release, suspension of execution of the sentence, electronic monitoring, community service, conditional release for health reasons, and placement in a semi-liberty regime.

Second: Right to be Notified of the Hearing Date

The Algerian legislator has granted the lawyer the right to be notified by the public prosecution of the hearing date at least forty-eight (48) hours before the session fixed on the basis of the file transmitted by the judge responsible for the execution of sentences.

Third: Right to Obtain a Copy of the File

The Algerian legislator has granted the lawyer the right to obtain a copy of the file compiled by the judge responsible for the execution of sentences when examining a request for the adjustment of a custodial sentence submitted by the prisoner or his lawyer, at least forty-eight (48) hours before the hearing.

Fourth: Right to Present Reasons and Grounds in Support of the Request for Adjustment of the Custodial Sentence

The Algerian legislator has granted the lawyer the right to attend the hearing devoted to ruling on the request for adjustment of the custodial sentence and to present the necessary reasons and grounds supporting this request.

Fifth: Right to Appeal Judgments Issued by the Sentence Execution Division

The legislator has granted the prisoner or his lawyer the right to appeal judgments issued by the Sentence Execution Division within ten (10) days from the date of notification to the convicted person.

Now, challenge AI sentencing aids, request digital monitoring delays reductions ensure data protection in enforcement.

Conclusion

In conclusion, through this study we have found that, in the context of consolidating the rights of the defence, the Algerian legislator has granted lawyers a set of rights and strengthened them under the new Code of Criminal Procedure N°.25-14. These rights extend across all stages of the public action, starting from the preliminary enquiry stage through to the trial stage, and do not stop at the stage of applying the sentence but go further to the stage of executing sentences.

The Algerian legislator has significantly strengthened lawyers' rights; however, the emergence of AI which introduces new dimensions is not mentioned in the amendment, all require continuous legal adaptation.

AI offers efficiency and improved access to justice, but it also raises fundamental concerns regarding fairness, bias, and accountability. The lawyer's role is therefore evolving from a traditional defender to a guardian of both legal and technological legitimacy.

These rights vary from one stage to another. From this study we have reached a set of findings, as follows:

Results:

✓ The lawyer does not have an effective role in the stage of searching for and investigating the offence, and has no authority to collect evidence, unlike the situation in some comparative legal systems.

✓ The lawyer's role in the preliminary enquiry stage is very limited, as it is confined to visiting the suspect held in police custody, and only after he has been interrogated by the judicial police.

✓ The lawyer cannot be present during the interrogation of the suspect by the judicial police, unlike in some comparative legal systems.

✓ The lawyer's intervention during the investigation is subject to the authorization of the investigating judge, and he cannot intervene directly in the course of the investigation.

- ✓ The investigating judge may refuse to provide the lawyer with the case-file when the results of the investigative measures are not ready for adversarial discussion. This refusal is unjustified and the reason given is broad and vague.
- ✓ The lawyer's role is limited in the management of judicial debate and in the presentation and discussion of evidence; the presiding judge fully controls the conduct of the trial.
- ✓ The lawyer's role in presenting evidence at the hearing is likewise limited, as he cannot directly produce evidence or summon witnesses and experts before the court. He may only request such measures, and the court has absolute discretion in assessing these requests.
- ✓ Courts retain dominant control despite technological evolution.
- ✓ The lawyer can increasingly be a guardian of both legal rights and technological accountability in modern criminal justice systems.

Suggestions and Recommendations:

- ✓ Strengthening the role of the lawyer at the stage of searching for and investigating the offence and grant him powers enabling him to collect evidence.
- ✓ Removing the time restriction on the lawyer's right to visit the suspect, and allow the lawyer to visit the suspect as soon as he is placed in police custody.
- ✓ Allowing the lawyer to be present with the suspect during interrogation by the judicial police.
- ✓ Allowing the lawyer to intervene directly before the investigating judge during the investigation.
- ✓ Emphasis the obligation to provide the lawyer with a copy of the procedures as soon as he requests them, and remove the investigating judge's power to refuse.
- ✓ Granting the lawyer, a broader role in the management of judicial debate.
- ✓ Granting the lawyer, a broader role in presenting evidence before the court during the trial, such as bringing an expert directly to the hearing.
- ✓ Ongoing technological developments require adaptation of legal frameworks.
- ✓ Future reforms should explicitly address digital evidence, AI use, and the need for specialized training for lawyers in technological matters.

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