

Questionnaire Mali

I. Preliminary Comments

In Mali, the constitutional order was suspended during a coup d'état in March 2012 a few weeks before presidential elections. Although constitutional order was quickly restored in April 2012, the transitional government stayed in office for more than 12 months until presidential elections were finally held in July and August 2013. In 2012, the then president Touré had planned to submit a comprehensive constitutional reform to a referendum. The referendum was scheduled for the presidential elections in 2012. However, the referendum on the constitutional reform was not held together with the presidential elections in 2013.

The constitutional reform included amendments to the set-up of the Constitutional Court (term of 9 instead of 7 years, non-renewable; the president of the Court to be chosen by the president of the republic; and most important: introduction of an individual complaint mechanism to better guarantee the bill of rights of Malians).¹

Material on the Constitutional Court and constitutional review in Mali is publicly available but often not up to date. On its own homepage, the Constitutional Court of Mali has published 131 of about 200 decisions from between 1995-2013. Decisions of the years 2010-2012 are not accessible on the homepage. Thanks to the kind support of Charlotte Heyl from GIGA in Hamburg, the decisions and opinions of the Court of the year 2012 are available.

More Information (including general overviews and questionnaires as well as decisions) is accessible on the webpages of the *Association des Cours Constitutionnelles ayant en Partage l'Usage du Français* (ACCPUF). The material has been last updated around 2002.

The main sources for this questionnaire are the Constitution of the Republic of Mali of 1992 (*Décret N° 92-0731 P-CTSP of 25.2.1992*) and the organic law of 1997 (*Loi n° 97-010 du 11 février 1997 portant loi organique déterminant les règles d'organisation et de fonctionnement de la Cour constitutionnelle ainsi que la procédure suivie devant elle*). Two articles (Art 27 and 32) organic law of 1997 have been amended in 2002. The amended law is not available on the internet but former constitutional judge Diarra discusses one of the two amended articles in his study (Diarra 2010: 334).

II. Different Legal Systems and Sources of Law

[...]

2. Civil Law

a. The Judicial Structure under French Civil Law System (to be answered by researchers for Benin, Burkina Faso, Gambia, Guinea, Ivory Coast, **Mali**, Mauretania, Niger, Senegal, Togo)

Special features of the French civil law system	
What are relevant features of the French Civil Law system?	
Which of those features are also reflected in the respective countries?	The 1992 Constitution largely follows the French model. The text is in many ways designed on the example of the French constitution of 1958. The Court is only competent to review laws a priori and only the president of the republic, the prime minister, the president of the national assembly plus a tenth of the members of parliament have standing, but not aggrieved individuals. However, there are some important aspects in which the judicial system of Mali departs from the French model: First of all, the constitution contains a binding bill of

¹ See rapport du « Comité d'experts pour la consolidation de la démocratie au Mali » available at <http://www.la-constitution-en-afrique.org/article-25228603.html> (last access 23.9.2013).

	rights in its very first chapter and the judiciary is conceived as (third) “power”, not “authority” as in the French system (Art 81 <i>Constitution of Mali</i>). Also, the constitution establishes a Constitutional Court as separate and centralized constitutional review mechanism. Other features of the Malian Constitution include provisions prohibiting coup d'états (Art 121) and mechanisms to hold the president personally accountable (Art 34, 35, 37 (2) and (3) of the <i>Constitution of Mali</i>).
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[...]

3. Religious / Customary / Mixed Legal Systems

Religious / Customary elements in the judicial system	
Does the judicial system in the respective country have religious courts / customary courts?	No
Do (lower) courts apply / accept customary law or religious law?	There is no constitutional recognition of customary or religious law. The first instance courts, courts of appeal and the Supreme Court apply customary or religious law in civil matters (see Art 28 <i>Loi n° 96-071 Portant loi organique fixant l'organisation, les règles de fonctionnement de la Cour suprême et la procédure suivie devant elle of 13.6.1996</i>). Customary law may still apply in land administration (see Chapter III of <i>Ordnnonnce N°00-027/P-RM DU 22 MARS 2000 portant code domanial et foncier</i>). The provisions of the family law (divorce, marriage, and inheritance) are statutory law but largely based on customary and Islamic law. The succession is still governed by customary or religious law (See Art 751 <i>Loi N°2011 – 087 du 30 Décembre 2011 portant code des personnes et de la famille</i>).

III. Historical Background of Constitutional Justice in West Africa

Development of Judicial Systems	
Did the judicial system changed compared to the one included in the independence constitution? If so in how far did it change?	<p>The judicial system in the constitutions of 1959 and 1960 provided for a <i>Cour d'Etat</i> that would control elections and referenda and could review laws and bills upon referral by the head of government or president of the national assembly. The constitutions of 1964 and 1974 left the competences largely unchanged but had the constitutional review integrated as one of four divisions of the Supreme Court. Under military and one-party rule until 1992, the constitutional review was not fully functional.²</p> <p>The present strong constitutional review mechanism with an autonomous Constitutional Court goes back to the new constitution of 1992. Compared to before 1992, the right to standing was extended and nomination procedures changed to guarantee independence of the judges</p>

² Diawara, "Le contrôle de constitutionnalité des lois au Mali", in: G. Conac, *Les cours suprêmes en Afrique : La jurisprudence: droit constitutionnel, droit social, droit international, droit financier* (1989).

(Political Control)

IV. Different Models of Constitutional Justice

1. Different Constitutional Institutions

What kind of judicial institutions are available in the respective country	
Which institution is considered “the highest court” in the country?	The court on all constitutional matters is the Constitutional Court which is the fifth state institution (Art 25 <i>Constitution of Mali</i>). The Supreme Court (“fourth state institution”) stands at the top of the court system.
Does the “highest court” in the country also stand at the top of the regular court system (highest court of appeal)? Or is it a separate institution?	The Constitutional Court features as separate institution. The Supreme Court stands at the top of the regular court system (Art 81, 85 <i>Constitution of Mali</i>).
Are there various highest courts in the country dependent on the issue to be addressed (e.g. highest court of administration, highest tax court)	No, there is only a Constitutional and a Supreme Court with three chambers: ordinary jurisdiction, administrative jurisdiction and Court of Audit (Art 83 <i>Constitution of Mali</i>). The High Court is a special tribunal for high treason or other severe crimes committed by the president or ministers (Art 95 <i>Constitution of Mali</i>). It has not been inaugurated. The provision will most likely be dropped in the next constitutional amendment. ³
At the highest court, are constitutional issues addressed in a specific chamber?	No, the Constitutional Court deals with all constitutional matters as distinct institution. Mali has a concentrated system of review.
Does the country have a judicial commission / judicial council, etc.	Yes, Mali has a judicial council called the “ <i>conseil supérieure de la magistrature</i> ” (Art 82 of the <i>Constitution of Mali</i>).

2. Systems of Control

If a lower court assumes that a regulation relevant to the case before it violates the Constitution, what can it do?	
Nothing, no power to question the constitutionality of the law/regulation.	There is no posterior review in Mali. However, there are plans to change that with the constitutional reform as mentioned above (Art 86 <i>Constitution of Mali</i> ; Art 45 <i>Organic Law</i>).
If the court has serious doubts about the constitutionality of the law/regulation related to a specific case, it might pause the proceedings and requests a statement of constitutionality from another institution (constitutional court, constitutional council, etc.), which may declare the regulation/law for unconstitutional.	n/a
The lower court may declare the regulation/law to be inapplicable in the specific context.	n/a
The lower court declares the regulation/law to be unconstitutional.	n/a
Any other action	n/a

- a. Diffuse System of Constitutional Review: The Supreme Court
- b. Concentrated System of Review: The Constitutional Court
- c. Hybrid Systems of Constitutional Review

³ See rapport du « Comité d'experts pour la consolidation de la démocratie au Mali » available at <http://www.la-constitution-en-afrique.org/article-25228603.html> (last access 23.9.2013).

V. Some Relevant Aspects of Judicial Independence

1. Independence of the Judiciary vs. Independence from the Judiciary – the Judiciary as Legislature
2. The Administration of Courts and the Budget of the Judiciary

Administration of the Judiciary	
Which body / institution is administering the judiciary?	Art 82 of the constitution provides for the independence of all judges in general terms. The judicial council oversees the careers of the judicial officers. The Ministry of Justice is responsible for the administration of the judiciary with the exception of the Supreme Court and the Constitutional Court. The Constitutional Court is independent in its administration (Art 15 <i>Organic Law</i>).
Is the Ministry of Justice involved in the administration of the judiciary)? If so, to what extent (hiring, promoting, evaluating judges, disciplinary measures)?	See above
Is there a body within the Judiciary / highest court that is responsible for administering the resources? To whom is this body accountable? Who has the administrative oversight over the administration of the judiciary?	The Constitutional Court is autonomous in the administration of its resources. The president of the Court is in charge of the Court's budget which is included in the general budget of the state (Art 15 <i>Organic Law</i>). The Constitutional Court has a director of administration, a clerk and a general secretary who assist in the administration of the Court (Art 16 and 17 <i>Organic law</i>).

What kind of impact does the judiciary / the constitutional court has in the process of drafting / approving its budget	
What kind of involvement does the judiciary in devising its budget (who originally submits the budget of the judiciary)?	The Court is financially autonomous. Its budget is part of the general budget of the state. During elections, additional funds can be allocated to the Court (Art 15 <i>Organic law</i>).
What kind of involvement does the highest court has in devising its budget (who originally submits the budget of the highest court)?	The Court devises its own budget (Art 15 <i>Organic law</i>).
Who might have the right to alter the budget (of the judiciary / of the highest court) within the approval procedure?	n/a
In how far do court statistics (case workloads, etc.) play a role in the determination of the budget)	n/a
Is the budget (of the judiciary / the highest court) an integral part of the overall budget or is it separated?	The budget of the Court is part of the overall budget voted on by the members of parliament (Art 15 <i>Organic law</i>).

3. Judicial Commission / Judicial Council

Judicial Commission / Judicial Council	
Is there any institution like a Judicial Commission / Judicial Council (see also IV.1)?	Yes, there is a “ <i>Conseil supérieure de la magistrature</i> ” which assists the president of the republic in guaranteeing the independence of the judiciary (Art 82 <i>Constitution of Mali</i>).
What are the tasks of the Judicial Commission / Judicial Council?	The council is in charge of the administration of all matters concerning the career of judges (Art 82 <i>Constitution of Mali</i>). Its tasks are: - the nomination

	<ul style="list-style-type: none"> - revocation - reinstatement - reassignment - secondment - conscription <p><i>(Loi Organique N°03-033 du 07 octobre 2003 fixant l'organisation, la composition, les attributions et le fonctionnement du Conseil supérieur de la magistrature)</i></p>
What are the criteria of eligibility for membership?	<p>There are 8 ex-officio members:</p> <ul style="list-style-type: none"> - the president of the republic - the general secretary of the government - the « Directeur national fonction publique et du personnel » - the « Procureur général près de la cour suprême » - the « Directeur général de l'administration de la justice » - the « Inspecteur en Chef des services judiciaires » - the « magistrat plus ancien dans le grade plus élevé » - the « magistrat plus jeune dans le grade moins élevé » <p>and 13 members elected from among the judicial officers</p> <p>The president of the republic presides over the judicial council (Art 45 <i>Constitution of Mali</i>).</p> <p><i>Loi organique N°03-033 du 07 octobre 2003 fixant l'organisation, la composition, les attributions et le fonctionnement du Conseil supérieur de la magistrature</i></p>
How is the Judicial Commission / Judicial Council composed?	See above.
Do ex-officio members have the same authorities like other members?	Yes.
Who selects members of the Judicial Commission / Judicial Council?	The 13 members who are not ex-officio members are elected by three different electoral colleges composed of judges of different grades (<i>grade exceptionnel, premier grade, deuxième grade</i>)

4. Challenges of Neutrality and Impartiality

VI. Composition

Composition of Constitutional Courts / Supreme Courts	
Eligibility: (a) minimal age / (b) maximal age / (c) legal education / (d) special legal qualification (e.g. sitting judge; being an expert in one legal system (for example Sharia law)/ (e) years of professional experience / (f) limitations (no party membership, no other positions while sitting in the court) / (g) other requirements	<p>(a) and (b) there is no minimum or maximum age</p> <p>(c) Two thirds of the members of the Constitutional Court have to be lawyers.</p> <p>(d) and (e) The judges have to be professors of law, lawyers, or judges or other public servants with at least 15 years of experience. They do not have to have specific legal qualifications.</p> <p><i>(Art 91 of the Constitution; Art 1 Organic law)</i></p> <p>(f) The position of judge is incompatible with all public, political or administrative office or activity.</p> <p><i>(Art 93 Constitution of Mali; Art 8 Organic law)</i></p> <p>(g) In addition to professional qualifications, members</p>

	of the Court should also have moral and professional integrity (Art 1 <i>Organic law</i>).
Selection of Constitutional Court / Supreme Court Judges: all judges selected in the same manner? / who / which institution is involved in the selection process?	The nine members are selected by the president of the republic, by the national assembly and by the judicial council (“ <i>conseil supérieur de la magistrature</i> ”), each nominating three members of the Court. Among the three members nominated by the president of the republic and the national assembly have to be at least two lawyers. The judicial council nominates three members from among the ranks of the judges (Art 91 <i>Constitution of Mali</i>)
Selection of Constitutional Court / Supreme Court Judges: if selected in different processes: who / which institutions are involved in the respective processes?	See above
How many institutions are involved in the selection process?	Three institutions are involved: the president of the republic, the national assembly and the judicial council, which is in turn presided over by the president of the republic.
Sequence of the selection process (recommendation, advise; election, consultation; appointment; cooption)	The Court members are appointed every seven years <i>en bloc</i> (1994, 2001 and 2008). The process is not set out in any further detail. It seems that every nominated candidate is appointed. ⁴ Other state organs (the government members, the national assembly, the regional chamber and the economic, social and cultural council) are considered to be in agreement if they have not objected (Art 4 <i>Organic law</i>)
What are the terms of office	Members of the Court are nominated for a term of seven years, once renewable (Art 91 <i>Constitution of Mali</i>)
Is a re-selection possible?	Yes, once (Art 91 <i>Constitution of Mali</i>)
Is the representation of minorities guaranteed (are ethnic, linguistic, religious differences to be considered)? How?	no
Is the opposition involved in the selection process?	no

1. Eligibility for Appointment as a Constitutional Court Judge / Supreme Court Judge
2. Selection of Judges of the Constitutional or Supreme Court
3. Terms of Office
4. Representation of Minorities

VII. Competences

1. Preliminary Review

Preliminary Review	
Available?	Yes, Art 88 provides for preliminary review.
Who can trigger the procedure (or is it part of the legislative process) (who has standing)? What is required to take action?	Organic laws have to be submitted to the Court by the Prime Minister before enactment (obligatory). Other laws can be submitted to review by: <ul style="list-style-type: none"> - the president of the republic - the prime minister - the president of the national assembly

⁴ Diarra, Démocratie et droit constitutionnel dans les pays francophones d'Afrique noire. Le cas du Mali depuis 1960 (2010), 276.

	<ul style="list-style-type: none"> - a tenth of the members of parliament - the president of the regional chamber - a tenth of the members of the regional chamber - the president of the Supreme Court. <p>(Art 86 and 88 <i>Constitution of Mali</i>; Art 45 <i>Organic law</i>)</p>
At which state of the legislative process can the preliminary review be triggered?	The Court is only competent to review laws in the time span between the adoption and the enactment of a law.
Applicable to all bills / drafts?	<p>The review is obligatory for organic laws, internal regulations of the state institutions national assembly, regional chamber and economic, social and cultural council.</p> <p>(Art 88(1) and 90 <i>Constitution of Mali</i>; Art 45 and 47 <i>Organic law</i>)</p> <p>The review is available for all other laws, including amendments to the constitution and international treaties.⁵</p> <p>(Art 88 (2) <i>Constitution of Mali</i>; Art 45 <i>Organic law</i>)</p>
Also consultative opinions available?	<p>No, not for laws.⁶</p> <p>In general: The Court can be consulted on practice of exceptional powers of the president in case of emergencies and on referenda.</p> <p>(Art 50, 41 <i>Constitution of Mali</i>)</p>

2. Abstract Review

Abstract Review	
Available?	No
Who can trigger the procedure (who has standing)? What is required to take action?	n/a
Applicable to all laws (or are there any restrictions: (organic laws)?	n/a
What kind of judgments may be rendered (nullification; directions to the legislature to fix the unconstitutional parts of a law within a specific period of time; others)?	n/a

3. Specific or Incidental Review

Incidental Review	
Available (are courts authorized to review the constitutionality of laws)?	No, only a priori, see above.
What happens if the court presumes that a law relevant to the case at hand is unconstitutional?	n/a
Is the doctrine of “stare decisis” legally applied?	n/a
Are there restrictions to incidental review?	n/a

4. Direct Action before the Constitutional or Supreme Court (individual complaint)

Direct action	
Available?	No
Who can trigger the procedure (who has standing)?	n/a
What is required to take action (how)?	n/a
Are there restrictions to the right of individual complaint?	n/a

⁵ The Court decided on a constitutional amendment in its decision N°01-128 of 11 December 2001.

⁶ Decision N° 96-002 of 23, 24 and 25 July 1996.

5. Limits on the Review of Constitutionality

Limits of Review	
Are there explicit limitations to the review of the constitutionality (for example international treaties, laws approved by referendum, laws that were valid before the constitution came into force, legislation past under emergency power, limitation to manifestly unconstitutional acts)?	No, there are no explicit limitations.

6. Review of Constitutional Amendments (formal regularity and substance)

Review of Constitutional amendments	
Is it possible to review amendments to the constitution itself?	<p>The Constitutional Court is obligatorily involved in the process of constitutional amendment: Constitutional amendments have to be put to referendum (Art 118 <i>Constitution of Mali</i>) and the Court has in turn to be consulted on any project submitted to referendum (Art 41 <i>Constitution of Mali</i>). However, this is an opinion only.</p> <p>The Court also watches over the regularity of the process of the referendum (Art 86 <i>Constitution of Mali</i> and Art 26 <i>Organic law</i>).</p> <p>Otherwise, the Court may be called upon to review the constitutionality of the amendment just like of any other law (Art 88(2) <i>Constitution of Mali</i>). The Court has confirmed its competence to review constitutional amendments.⁷</p>
If so, is the review limited to a formal review of constitutionality or is a review on the substance of the constitution also permitted?	If the Court reviews the amendment under Art 88(2) <i>Constitution of Mali</i> it will review it in form and substance for respect of Art 118 <i>Constitution of Mali</i> .
Does the constitution contain immutable clauses (provision that are excluded from constitutional amendment)?	Art 118 <i>Constitution of Mali</i> prohibits any amendments compromising the territorial integrity, the status as republic, secularism or the multi-party system.
Who can trigger the procedure (who has standing)? What is required to take action?	<p>The regular review procedure can be triggered under Art 88(2) <i>Constitution of Mali</i> as for any other law (see above on <i>a priori</i> review) triggered by political institutions.</p> <p>The opinion on any project submitted to referendum under Art 41 is sought by the president of the republic.</p> <p>The process of the referendum can be contested by every person on the voters list, each political party or state representative. The complaint has to be submitted within 8 days after the referendum; it has to be written, dated and signed and then addressed to the president of the Court. It has to contain the names and address of the complaining person as well as supporting material for her or his complaint (Art 26-30 <i>Organic law</i>).</p>

7. Unconstitutional Omission

Unconstitutional Omission

⁷ See Decision N°01-128 of 11 December 2001.

Is it possible to take action against constitutional obligations that haven't been implemented?	No
Who can trigger the procedure (who has standing)? What is required to take action?	n/a
What kind of judgments may be rendered (instruction to the legislature / executive to take action (within a specific period of time); declaration that a law only insufficiently implements a constitutional obligation; court "implements" the obligation by rendering a specific right to the claimant; others)?	n/a

8. Conflicts between State Bodies

Conflicts between State Bodies	
Available (does the court have jurisdiction to decide whether or not a certain task falls within the authority of a state body or to interpret the limits of authority also in relation to other bodies, be it horizontally (between different institutions at the national level) or vertically (between national institutions and institutions from the province / local institutions)?	Yes, the constitution allows the Court to decide over conflicts between state bodies (Art 86 <i>Constitution of Mali</i>). Although neither the constitution nor the organic law set out any specific procedure the Court has decided on conflicts between state bodies.
Who can trigger the procedure (who has standing)? What is required to take action (how)?	Only the political institutions/ state bodies themselves can take action (<i>Decision N° 01-0123 of 30 March 2001</i>)

9. Elections

Elections	
Is the Court involved in resolving electoral disputes?	<p>Yes, the Constitutional Court is the central body involved in all election related matters (Art 33 and 87 <i>Constitution of Mali</i>). It watches over the regularity of the presidential and parliamentary elections and announces the official results.</p> <p>The court states the list of candidate and rules on their eligibility if contested before elections. It watches over the regularity of the voting process during the elections. After the elections it decides on all complaints and declares the official results (Art 31-44 <i>Organic law</i>; Art 136 and 148 <i>Loi électorale N° 06-044 du 4 septembre 2006 consolidée</i>; Art 137 and 148 <i>Loi électorale</i> ; Art 142 and 150 <i>Loi électorale</i>).</p>
Who can trigger the procedure (who has standing)? What is required to take action?	<p>All candidates, every political party and government officials have standing (Art 87 <i>Constitution of Mali</i>).</p> <p>The process of registration of candidates can be contested by members of the National Election Commission (CENI); the political parties and every candidate. The validity of the candidatures can be contested by every candidate, political party or state representative in the election district (Art 31 <i>Organic law</i>).</p> <p>In addition, every member of a polling station can submit a complaint regarding the voting procedure (Art 33 <i>Organic law</i>).</p>

	To take action, a written, dated and signed complained has to be submitted to the president of the Court or a state representative in the electoral district (Art 34 <i>Organic law</i>). The letter has to include all relevant material in support of the complaint (Art 35 <i>Organic law</i>).
If the court is not empowered, is there another institution that settles electoral disputes?	n/a

10. Fundamental Rights

Fundamental Rights (see also individual complaint)	
Are (all?) human rights subject to review before a court?	Yes, the Court guarantees all human rights and liberties (Art 85 <i>Constitution of Mali</i>) but there is no complaint procedure in place. The Court will only review legislation <i>a priori</i> and no concrete individual complaints.
Is there any other kind of institution where aggrieved individuals may turn to (human rights commission, Ombudsperson)? How is its institutional relation to the (highest) courts?	No
Who can trigger the procedure (who has standing: also NGOs / consumer protection organizations on behalf of individuals)? What is required to take action (how)?	There is no individual complaint procedure before the Court.
With regard to social rights, does the highest court in the country have jurisdiction to offer less than attributed by lower courts (<i>reformation in peius</i>) (example: right to water in the constitution, but how many litres/day as a minimum threshold: If lower court admits 30 l/d, but the complainant wants 40 l/d and appeals can the highest court also overturn the lower court to the negative, only offering 25 l)?	N/a

11. Other Powers of Supreme Courts / Constitutional Courts

Other powers	
Conduct of referenda	Art 86 <i>Constitution of Mali</i> provides for a role of the Court in referenda. It watches over the regularity of the process. The procedures are set out in detail in Art 26-30 <i>Organic law</i> .
constitutionality and dissolution of political parties	No
impeachment procedures for the president	There is a special High Court (<i>Haute Court de Justice</i>) for cases of high treason and similar crimes committed by the president of the republic or members of the government. (Art 95 <i>Constitution of Mali</i>)
(binding) interpretation of the constitution	No
Others?	<p>The Court can decide on the legislative nature of a norm or regulation (Art 73 <i>Constitution of Mali</i>, Art 53 <i>Organic law</i>)</p> <p>The Court is also to be consulted on emergency measures (Art 50 <i>Constitution of Mali</i>; Art 55 <i>Organic law</i>).</p> <p>The Court also officially states the presidential vacancy (Art 36 <i>Constitution of Mali</i>; Art 54 <i>Organic law</i>).</p>

VIII. Standing

1. Who (see under VII.)

Only political institutions:

- the president of the republic;
- the head of government;
- the president of the national assembly;
- a tenth of the members of parliament;
- the president of the regional chamber (“*Haut Conseil des collectivités territoriales*”);
- a tenth of the councilors of the regional chamber;
- the president of the Supreme Court;
- the president of the “Conseil économique, social et culturel”

Table Structure

2. How (see under VII.)

Table Structure

IX. Effects of Judgments (Authority of the Judgments)

Authority of Judgments	
Do the judgments have <i>erga omnes</i> or <i>inter partes</i> effects (with regard to VIII. 2-4; 7-8)?	The judgments bind all state powers, administrative and judicial authorities as well as all persons and institutions (Art 94 <i>Constitution of Mali</i>).
Do the judgments have effects for the future only (<i>ex-nunc</i>), do they have even retroactive effects (<i>ex-tunc</i>) or is the effect deferred in order to give the legislation time to adjust the legislation to the court’s decision.	Since the Court is only competent for review <i>a priori</i> its judgments have effects for the future only. In case a law is found unconstitutional in part only, the president of the republic can decide to enact it without the relevant provisions or ask for a new reading in the national assembly (Art 46 <i>Organic law</i>).
What legal authority does the judgment have to the relevant groups (below) considering that they have been part of the process?	The judgments have binding effect on all of them but since only political institutions have standing before the Court they are the only ones directly affected.
In general, who (see below) is affected how by the judgments of the Constitutional Court?	Political institutions are the only ones directly affected (in all cases other than elections)

1. On Citizens
2. On Administrations
3. On other Judicial Institutions
4. On Political Institutions
5. On Military

X. Control of the Constitutional Jurisdictions

Control of the Constitutional Jurisdiction	
Political control (see selection of judges; terms of office)	Political control can be partly exercised through the selection of the judges by the national assembly and the president of the republic. Since the terms of judges are once renewable the two institutions could have a limited influence on the judges in their first term.
Removal / dismissal of highest judges (at all / only by judicial decision within the judiciary / by external institutions?)	Constitutional judges can only be removed in an internal procedure in accordance with Art 10 <i>Organic law</i> .
What are the criteria for the removal of highest judges (e.g. proven legal misbehavior)	In case a member of the Court has accepted an office or exercised an activity incompatible with the office of Constitutional judge or if he/she has lost his civil and political rights or has mistaken his/her general and

	<p>specific obligations according to Art 3 and 10 <i>Organic law</i>, the judge will be dismissed by the Court.</p> <p>Offices and activities that incompatible with the office of Constitutional judge are defined in Art 93 of the Constitution and Art 8 <i>Organic law</i> (see on eligibility above).</p>
May decisions of the highest court be overruled by another institution (legislature)? What are the requirements?	No, according to Art 94 <i>Constitution of Mali</i> all public powers including the legislature are bound by the judgment.
Amending the constitution in light of a decision of the highest court.	There is no explicit provision on this.

1. Independence vs. Accountability
2. Political Control
3. Constitutional Amendment
4. Removal / Impeachment of Judges
5. Overruling of Decisions

XI. References

Diarra, Abdoulaye (ed.), *Démocratie et droit constitutionnel dans les pays francophones d'Afrique noire. Le cas du Mali depuis 1960* (Paris: Karthala, 2010).

Diawara, Daba "Le contrôle de constitutionnalité des lois au Mali", in Conac, Gérard (ed.), *Les cours suprêmes en Afrique : La jurisprudence: droit constitutionnel, droit social, droit international, droit financier* (2; Paris: Economica), 106-116.