



The Right to the Presumption of Innocence is an Affiliation with Criminal law and a new Challenge for Civil Law.

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ABSTRACT

The right to the presumption of innocence is considered a right of the individual in general and of the accused in particular. This right arose and developed within a criminal context, gaining later attention within private law, specifically French civil law through Article 9, paragraph 1. This right thus benefits from both civil and criminal protection, taking on broader dimensions beyond its traditional scope. This topic examines the protection of the right to the presumption of innocence within civil law by exploring the extent of this right, clarifying the conditions for activating such protection, as well as the penalties for violations of this right.

Keywords: presumption of innocence, guilty person, preventive measure, damages.

Introduction:

At first glance, studying this type of rights within the general rules of civil law may seem contrary to legal logic, according to the common notion that civil law is exclusively the law of financial transactions, which implies that its study is limited to financial rights and excludes others. Consequently, one might assume that this type of right, namely the presumption of innocence, falls outside its scope. However, this cannot be accepted unconditionally, as attention to this right has reached the extent of describing it as a fundamental right that cannot be dispensed with or neglected; without it, an individual cannot feel secure in regard to their life, freedom, and activities. Here, it is worth mentioning that the French Civil Code did not originate the right to the presumption of innocence but rather rearticulated it, since for a long time until now, this right has been primarily associated with criminal procedures. This reflects the intention of the French legislator when amending the Civil Code in 1993 by adding Article 9-1 pursuant to Law 5-1-1993. This new provision provided a broad practical understanding by establishing a new personal right and was specifically placed after Article 9, which stipulates the right to respect for private life, thus making it a consequence of considerations for the protection of this right, confirming it not merely as one of the rights of. Protecting this right is not merely a matter of human rights; rather, it is a matter of personal rights, making it a subject of concern for both public and private law rules. Hence, addressing it from the perspective of



civil law is considered a novel issue that may raise numerous questions, especially in light of the unique modern regulation provided by the French Civil Code in this regard.

The importance of this research is evident from two perspectives: social and legal. From a social perspective, this topic gains significant importance due to its connection with an essential aspect of human life, which must be protected through the effective means provided by the law. It constitutes one of the constitutional guarantees for the individual in general and for the accused in particular.

From the legal perspective, which concerns us here, the importance of studying this topic is as follows:

- The right to the presumption of innocence within the framework of civil law has not received comprehensive study by jurists or researchers in the same way that other topics in civil law have, such as proprietary rights like the right of ownership, for instance. This necessitates focusing on the human being as a human, not merely as a holder of a financial right. What has been written about this right pertains primarily to the criminal context. It is therefore necessary to explore the protection of this right from the perspective of civil law.

As for the reason that prompted us to address this topic, it is the psychological inclination toward such a study due to the principles it carries, which every researcher should explore in its content and examine its rulings. Any development affecting the right to the presumption of innocence is worthy of study.

The topic raises the following problem: To what extent does civil protection guarantee the right to the presumption of innocence under Algerian civil law?

From this problem arise the following subsidiary questions: How did the legislator balance the protection of this right on one hand and freedom of expression on the other?

The answer to this problem is primarily found in the scope of French civil law, which was the first to legislate the protection of this right. The researchers relied on the analytical method to study the legal texts related to the subject, explaining what is unclear in our esteemed legislation, in addition to referencing available positions in Western jurisprudence and comparative judicial rulings, particularly French jurisprudence, which was bold in publishing judicial decisions and even in establishing judicial principles, and in its constant attempt to adapt and interpret legal texts in line with practical reality. This is particularly significant considering the scarcity of judicial decisions in Algeria, even if they exist. And if found, it is not published, and this is discussed through two sections: The first section: the conditions constituting the infringement of the presumption of innocence, and the second section: we addressed the civil liability for the infringement of the presumption of innocence.



1- Section One: Conditions Constituting an Assault on the Presumption of Innocence

The French legislator has guaranteed the right to the presumption of innocence when amending the Civil Code in 1993 by adding Article 9-1 through Law 5-1-1993¹, in Article 9/1, the text has settled in its current wording after being amended again on June 15, 2000, stating that **"the judge may, even in urgent proceedings, without prejudice to a claim for compensation for actual damage, take all measures such as publishing a correction or distributing a statement, for the purpose of stopping the assault on the presumption of innocence, at the expense of the natural or legal person responsible for this assault²."**

The essence of this right is that a person prosecuted for a crime remains innocent as a general rule until his commission of the crime is confirmed by a final judicial ruling. It should be noted that within Algerian legislation, there are no explicit texts at our disposal or a provision similar to Article 9-1 of the French Civil Code. Successive committees entrusted with the project to amend the Civil Code may have sought to include a similar provision, which is a commendable approach as it reflects national concern for human rights, in line with modern legislations³. However, one can find in Article 35/10 of the Organic Law on Information a clear application of the presumption of innocence which states that **"A journalist, during the practice of their journalistic activity, must strictly adhere to the rules of professional ethics and conduct stipulated in Article 34 above, In addition a journalist must refrain from: infringing on private life and by the presumption of innocence."** A memorandum was also issued by the Directorate of Criminal Affairs and Pardon Procedures at the Algerian Ministry of Justice in this context, in this regard, in relation to Decree No. 15-02 of 23/07/2015 supplementing Decree No. 66-155 of 08/06/1966 containing the Code of Criminal Procedure, including some of the provisions contained in the text, including: Framing the right to information during the preliminary investigations after obtaining permission from the Public

¹ Law No. 93—2 of January 5th, 1993 art.47 Official Journal of 5th, 1993.

² This is the authentic version of the French Law :

«Chacun a droit au respect de la présomption d'innocence : Lorsqu'une personne est, avant toute condamnation, présentée publiquement comme étant coupable de faits faisant l'objet d'une enquête ou d'une instruction judiciaire, le juge peut, même en référé, sans préjudice de la réparation du dommage subi, prescrire toutes mesures, telles que l'insertion d'une rectification ou la diffusion d'un communiqué, aux fins de faire cesser l'atteinte à la présomption d'innocence, et ce aux frais de la personne, physique ou morale, responsable de cette atteinte.

For further details about this amendment, please consult the website containing the French civil law:

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEX T000032004939>

Consulted on November 11th, 2024 at 08 :00 pm.

³ Muḥammad Būdālī, al-Ḥimāyah al-jinā'īyah wa-al-madanīyah lqrynh al-barā'ah, Majallat al-Maḥkamah al-'Ulyā, al-'adad al-Thānī, taṣdur 'an Qism al-wathā'iq bi-al-Maḥkamah al-'Ulyā, al-Jazā'ir, 2004, §45 [Mohamed Boudali, The Criminal and Civil Protection of the Presumption of innocence, Journal of the Suprême Court, No. 02, Issued by the Department of Documents of the Suprême Court, Algeria, 2004, p. 45].



Prosecution to inform the public of some of the investigative data extracted from the proceedings, taking into account the presumption of innocence and respect for private life⁴.

However, the researchers point out that the Algerian legislature has already affirmed this right many times in legal texts and its adoption of this principle, including what is stated in the constitution in the text of article 41 of the constitution, which states that **"every person is considered innocent until proven guilty by a judicial body within the framework of a fair trial"**⁵, and also within the Code of Criminal Procedures in the text of its first article by stating that **"this law is based on the principles of legality, fair trial and respect for human dignity and rights, and takes into account the In particular, every person is considered innocent, and his guilt is proven by a court verdict that has the force of the judgment"**⁶.

Its amendment, which is the current wording after its amendment on June 15, 2000, states that the judge may, even in an urgent lawsuit, without prejudice to a claim for compensation for actual damage, take all measures such as publishing a correction or distributing a statement, with the aim of stopping the attack on the presumption of innocence, at the expense of the natural or legal person responsible for this attack. Naturally, we will present, after reviewing the current text, what seemed to us to be the conditions under which the presumption of innocence is affected or violated in French civil law. These are: that the person is described as criminally guilty, which we address in the first section, which can be achieved through publication in the second section, and finally, the existence of a judicial procedure, where the facts describing the person as guilty of the acts are subject to police investigation or judicial inquiry, in the third section.

- 1- that a person be described as criminally guilty: This condition is explicitly included in Article 9-1, which states, **"A person who publicly presents, before any conviction is made, as being guilty of facts that are subject to a police investigation or judicial inquiry."** This can include if statements or published articles contain preconceived and definitive impressions and conclusions that allow assuming the person's guilt, and this is before the judiciary rules on it, revealing a prior judgment that implies the person's conviction, either directly or by suggestion. It is also permissible to rely on the application of a defamation lawsuit, the enforcement of which will be more flexible⁷. This was ruled by the Paris Court of First Instance, stating that a television investigation could constituted an infringement on the presumption of innocence by presenting evidence testimonies without reservation, in circumstances likely to lead viewers to believe in certain conviction⁸. We

⁴ <https://www.mjustice.dz> consulted on November 5th, 2015, at 09:30 pm.

⁵ Presidential decree No. 20-442 of December 30th, 2020, related to issuing the constitutional amendment ratified on November 1st, 2020, Official Journal, No. 82 of the year 2020.

⁶ Law No. 25-14 of March 8th, 2025, containing the Code of Criminal Procedures, Official Journal, No. 54.

⁷ *BIGOUT. chr, Les modification recentes du droit de la presse Gaz .Pal 1993I,doct tr, p.1067* [BIGOUT. chr, the recent modifications of the Press Law, Gaz .Pal 1993I,doct tr, p.1067]

⁸ TGI Paris, July 7, 1993, Gauzic/France2, unpublished.



note that before the enactment of the law, violating the presumption of innocence is punishable by a defamation lawsuit⁹, or through the protection of private life as provided in Article 9-1 of the French Civil Code¹⁰.

However, the presumption of innocence is not violated if the material facts are presented objectively, because this description does not constitute proof or evidence of a person's guilt that could convince the public and readers of such guilt. This principle was upheld by the French Court of Cassation, which stated that it does not constitute a violation of the presumption of innocence if a journalist reports certain facts as stated by some witnesses and police officers, and links them to the charges brought against the person by the investigating judge, as long as it does not affirm the person's guilt in the case¹¹, because the journalist did not express a personal opinion about the individual's culpability and did not assert it as definitive. As long as the facts are reported objectively, which was confirmed by the Rouen Court of Appeal¹², this reflects the freedom of expression enshrined in the European Convention on Human Rights and the public's right to information, allowing journalists to present events that occurred to the public. On the other hand, if a journalist expresses a personal opinion suggesting that a person is guilty of certain acts before the judiciary has ruled, this is considered a violation of the presumption of innocence, because in the eyes of readers, the person becomes guilty, potentially influencing those who read the articles¹³. And for the judges of the subject matter discretionary authority to assess any harm to the presumption of innocence of the person concerned.

It is worth noting that Article 9-1 of the French Civil Code does not only require that the facts be attributed to a person as being guilty of committing them. The text does not require that this person has faced a specific procedure from those defined, which is being placed in police custody. Jurisprudence has also criticized this limitation, arguing that the infringement on the presumption of innocence does not occur before judicial action is taken against the person whose innocence has been violated¹⁴.

And so, as long as the judiciary does not act and take measures against a person regarding the allegations made against them, Article 9-1 of the French Civil Code does not apply. It seems that the French legislator intended, with this condition, to expand the scope of

⁹ Crim. March 16th, 1993, no. 91-81.819, published in the Bulletin.

¹⁰ Report of the workgroup on the presumption of innocence, the Presumption of Innocence: a Challenge for the Rule of Law, Chaired by Elisabeth Guigou, October 2021, p. 61.

<https://www.justice.gouv.fr> Consulted on : August 5th, 2025 at 02:00 pm.

¹¹ Court of Cassation, First Civil Chamber, March 6th, 1996, Bull No. 123, No. 93-20.487.

¹² Court of Appeal of Rouen, September 20th, 1993: JCP Ed. G. 1994, II, 22306, note by Christophe Bigot and Jane-YVES Dupeux.

¹³ Bureau Hélène: op. cit., No. 11, p.1695.

¹⁴ Auvret Patrick: The Right to Respect for the Presumption of Innocence: JCP ED. G. 1994, 1, No. 3820, Nos. 51 and 52, p.502.



defamation actions¹⁵ by narrowing the application of Article 9-1 before judicial action is taken against the person whose presumption of innocence has been attacked.

2- Necessity of Publication or Public Exposure

The act of publishing allegations, making them accessible to the public, and presenting a person as guilty of certain acts is what constitutes an infringement on the presumption of innocence of the individual concerned, through publishing the allegations during judicial proceedings and making them available to the public¹⁶, especially by the media, through their publication¹⁷.

Article 9-1 of the French Civil Code has limited itself to stipulating that this publication—until the presumption of innocence is violated—should be a publication in the relevant print or bulletin, from which it is inferred that the publicity required for the violation is achieved through a print or bulletin, as it is the only means by which the statement can be published¹⁸. This interpretation suggests that the violation of the presumption of innocence is carried out through the press and not other means of media, and initially, the French judiciary followed this assumption¹⁹.

However, this interpretation led to a narrowing of the scope of this provision. The French courts, in many cases and based on Article 9-1, ruled that the violation of the presumption of innocence can also be achieved through television, as well as through television recordings²⁰. It is as if the publication in an article states that someone has been subjected to a specific judicial procedure, such as being charged, summoned to appear before the court, or detained in custody. However, referring to the text of Article 9-1, it does not specify the form that this publication should take, as the means of publication did not pose an obstacle to the judge's consideration, as if the violation of the presumption of innocence was committed through it or not. Especially since the French legislator deleted the word "printed" in the wording of 9-1 after it was amended by the Law of 15/07/2000, which allowed the judge to take all measures to stop the violation of the presumption of innocence, such as publishing a correction or statement, without restricting publication to a specific medium. Therefore, the violation of the presumption of innocence can occur through any means of media as long as it reaches the public, in such a way as to make the violation of the presumption of innocence public.

3- The existence of judicial proceedings

where the acts that a person is described as guilty of committing are the subject of a police investigation or judicial inquiry. The acts attributed to a person as guilty must be subject to police investigation or judicial inquiry, which reflects the French legislator's desire to broadly

¹⁵ Mohamed Boudali, op. cit, p. 44.

¹⁶ Bureau Hélène: op.cit. n°21p.1693.

¹⁷ BIGOUT. chr, op.cit, p. 1067

¹⁸ Auvret Patrick: : op.cit. n°55p.502.

¹⁹ TGI paris, July 7th, 1993: JCP Ed.G.1994,II, 22306 noted by Bigot and Dupeux.

²⁰ Cass.Crim. March 16th, 1994: JCPG, 1995,II,22547p499 noted by Jacques RAVANAS.



protect the presumption of innocence and to defend it outside the scope of any judicial investigation. Therefore, a person does not benefit from the protection of the presumption of innocence provided in the text of the article as long as no judicial action has been taken against them. However, the scope may extend to the use of a defamation lawsuit²¹, thereby broadening the protection beyond the condition set by Article 9-1 of the Civil Code.

4- Civil Liability for Assaulting the Presumption of Innocence

The purpose of these penalties is to restore the dignity of the person whose right to the presumption of innocence has been violated. Here, it should be noted that the responsible party bears, if necessary, the costs of publishing the statements, whether the responsible party is a natural or legal person for violating the presumption of innocence. This penalty is represented by a specific sanction, which involves publishing a correction or distributing a statement as outlined in the first section, provided that this penalty does not prejudice the injured party's right to obtain compensation as a sanction established according to the general rules of the second section.

5- Publication of a Correction or Distribution of a Statement

Article 9 stipulates that "The judge may, even in an urgent lawsuit and without prejudice to compensation for the actual damage, stop the attack on the presumption of innocence at the expense of the natural or legal person responsible for this attack, and may take all necessary measures."

Therefore, based on this provision, the injured party is allowed to resort to publishing a correction or distributing a statement to stop the violation of the presumption of innocence. A correction means to be a publication in the same medium where the attack on the presumption of innocence occurred, whereas the distribution of a statement refers to publishing it in a different medium than the one in which the attack took place, with the aim of restoring the truth²². For example, if the attack on the presumption of innocence involved the public dissemination of false information, this highlights the importance and effectiveness of this preventive measure due to its preventative nature.

It is worth noting that the text of Article 9-1 of the French Civil Code, which mandates taking precautionary measures, was cited as an example of the measures a judge may take, as indicated by the wording of the text which states, 'The judge may... take all necessary measures.' It is also clear that taking these measures is at the expense of the person responsible for the violation, who may be a natural or legal person. Such a penalty provides a form of redress for the individual whose right to the presumption of innocence has been violated. This is in line with French jurisprudence, which holds that any violation of the presumption of innocence by the press is assumed to be compensable through the

²¹ BIGOUT. chr, op.cit. p.1067.

²² Bureau Hélène: op.cit. n° 26 p.1698 and s.



publication of a correction. It should also be noted that the purpose of publishing the statement is to enable the harmed individual, who was a victim of this violation, to respond promptly and effectively to this infringement and to affirm that the person has not yet been convicted. Such a penalty is an example of specific penalties²³.

The statement is published by way of an urgent claim from the injured party, whose presumption of innocence has been violated on the grounds that he has not yet been convicted by the urgent judge for taking these measures to stop the assault, without affecting the person's right to compensation for the harm suffered. Therefore, the urgent judiciary is the appropriate authority to impose urgent protection to halt the infringement of these rights, as the case does not tolerate delay in judgment. The speed in publication to stop the violation of the presumption of innocence—on an urgent basis—is essential for effectiveness. French courts, when publishing the statement from the victim, did not differentiate between the written press and audiovisual media.

Regarding the effectiveness of preventive measures, there is doubt about the efficacy of these measures in preventing aggression, especially if it is carried out through newspapers. Therefore, these measures have little preventive value. This is due to the nature of the medium through which the aggression occurs, namely newspapers, which are printed and distributed in the evening, leaving no opportunity to request a halt to publication or to prevent it beforehand. And if it is said that stopping publication could be possible for subsequent editions of the same issue, there still isn't enough time for the aggrieved party to request a halt, as the copies of the next editions are printed and distributed either in the evening or, at the latest, early in the morning. Thus, stopping the publication would only be useful for future issues by preventing continued publication. Moreover, the distribution of a certain number of copies may be enough in itself to constitute aggression in some cases due to the rapid spread of the news. Therefore, preventive measures do not play a preventive role in stopping aggression by newspapers except in terms of stopping the continuation of the aggression. In this case, such measures have their impact in stopping the aggression after it has occurred and in narrowing the scope of this aggression and therefore, narrowing the scope of the harm without these measures having any preventive effect against the assault before it occurs.

We point out that, although the dissemination of statements or the publication of a correction to stop the violation of the presumption of innocence is similar to the right of reply provided for in the Algerian media law²⁴, as stipulated in Article 37, which states: 'Without prejudice to the legislative and regulatory provisions in force in this area, every body or natural or legal person who has been subjected to false claims that could harm their honor or reputation has the right to exercise their right of reply.' , However, the exercise of the right to broadcast a

²³ CA Toulouse, July 5th, 1993: Recueil DALLOZ ,SIREY 1994, Jurisprudence p.382, Noted by Jacques RAVANAS.

²⁴ Organic Law 23-14 on Information dated August 27th, 2023, Official Gazette, Issue 56.



statement or publish a correction is subject to conditions specified in Article 9-1 of the French Civil Code, in order to ensure that an infringement of the presumption of innocence has occurred, whereas the right of reply concerns accusations affecting honor or reputation without the requirement that the person be subject to a specific judicial procedure. This has led some to say that the exercise of broadcasting a statement or publishing a correction is restricted by conditions for its use, while the right of reply sets easier conditions for exercising the right of reply, which allows one to say that an aggrieved person may combine both if the conditions of each are met. These differences could lead to strengthening the protection of the right to the presumption of innocence²⁵. Consequently, the text of Article 101 adopts a broad concept of the presumption of innocence, as it does not require that the person in question has been presented as guilty or is involved in facts subject to legal proceedings; in other words, it does not require that there be an infringement on the presumption of innocence. Therefore, the right of reply provided for in Article 101 of the Organic Law on Information cannot be encompassed by Article 9-1, due to the restrictions it contains, which cannot be denied no matter how much we try to expand the interpretation of this article.

We would like to emphasize at the end that taking these measures is about halting the violation of the presumption of innocence by restoring the person's reputation.

Section Two: Compensation as a Prescribed Penalty According to General Rules

Compensation is considered an effect of civil liability, and it serves as a means to redress the harm suffered by the injured party due to the violation of their right to the presumption of innocence. The injured party resorts to it if there is no benefit in resorting to preventive measures to prevent the infringement on the right to the presumption of innocence or to stop it. Accordingly, in this case, the injured party is allowed to combine compensation with precautionary measures, because a lawsuit to stop the aggression aims to halt the aggression even if no damage has occurred. In other words, the success of this lawsuit depends solely on the occurrence of the aggression, based on Article 9-1, which stipulates, 'The judge may, without prejudice to the compensation claim for actual damage, take all necessary measures.' In contrast, a compensation claim is linked to the harm suffered by the injured party, and the source of this obligation to compensate is the violation of a legal duty imposed by law, namely the infringement of the right to the presumption of innocence. The primary function of civil liability is to compensate the victim for the conduct of the responsible party²⁶. Here, it should be noted that whenever there is an infringement of the right to the presumption of innocence, it necessarily entails the existence of damage, even if some damages are difficult to compensate (irreparable damage). Because the civil protection is only effective if the victim is entitled to

²⁵ Mohamed Boudali, op. cit, p. 46, 47.

²⁶ Ali Filali, The Evolution of the Right to Compensation with the Evolution and Diversification of Damage, Journal of the University of Algiers 1, Issue 31, Part One, 2017, p. 11.



compensation merely for the violation, without the need to prove the damage or its extent²⁷. French courts have ruled to grant compensation simply for the infringement of this right²⁸, and French doctrine has supported this approach by implementing Article 9 of the Civil Code²⁹. This allows the judge to take precautionary measures when this right is violated, without affecting the victim's right to receive compensation. However, compensation in this context raises an important issue regarding its basis, as it is merely an application of civil liability principles. Therefore, there is no justification for specific provisions guaranteeing this protection, even under the special protection provided in Article 9-1 of the French Civil Code. Hence, there is no need for special provisions to ensure this protection, despite the complete independence of these rights' protection. The ghost of civil liability under Article 1382, corresponding to Article 124 of the Algerian Civil Code³⁰ as the general principle for acts entitling the victim to compensation³¹.

It will appear in some French court rulings because this text includes the elements of civil liability, insofar as it requires the element of fault, as the infringement of the presumption of innocence itself is a fault, and the presence of damage, the element of damage, which arises from unlawful assault, that is, the causal relationship, because this is necessary for all cases of financial compensation. Of course, this is alongside the exemption of the injured party from proving the presence of the elements of responsibility. Although there is a distinction between Article 9-1 and Article 1240 of the French Civil Code³², the independence recognized in this manner is very limited, as the French Court of Cassation does not allow a complete separation from the mechanisms of tort liability. Even if the recognition by the French legislator, by a special text for the right to the presumption of innocence, suggests that it intended to protect it with special rules, it did not leave the right to compensation for its violation to the general rules governing compensable acts. Examining these elements requires pointing out the most

²⁷ Houssam Eddine Kamel Al-Ahwani, *The Right to Privacy (The Right to Privacy) A Comparative Study*, Arab Renaissance Publishing, Cairo, no publication year, p.440.

²⁸ Jacques RAVANAS: Noted under CA Toulouse, July 5th, 1993: compendium Dalloz SIREY 1994, Jurisprudence, no. 9, et seq., p.385 et seq.

²⁹ Bureau Hélène: op. cit. no. 25, p.1698 and seq.

³⁰ Decree No. 58-75 dated 26/09/1975 including the amended and complementary Civil Code, Official Gazette, Issue 78

³¹ The Article 1382 of the French Civil Code and beyond were the ones that regulated the elements of tort liability, but they were amended by Decree No. 131 of February 10th, 2016, by which several legal articles were merged with each other, some legal articles were advanced and others were retreated, which led to a change in the numbering of some articles, including the articles on civil liability that were regulated by Articles (1382-1384) before the amendment. It is now regulated by Article (1240) and beyond, and this change did not affect the legal wording of these articles related to liability, but was limited to their numbers only.

For further details on this amendment, please consult the website containing the French Civil Code.

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEX T000032004939>

³² Report of the workgroup on the presumption of innocence, the Presumption of Innocence: a Challenge for the Rule of Law, Chaired by Elisabeth Guigou, October 2021, p. 61.



important characteristics of these elements, and therefore the study of them refers to the general rules in the field of examining compensable acts.

Conclusion:

Our study of the right to the presumption of innocence within the framework of civil law, as one of the most important individual rights and at the same time one of the key pillars upon which the rule of law is based, has revealed shortcomings in the study of this right within civil law and in jurisprudence. This, in a negative way, contributes to reinforcing the ambiguity surrounding this right. Similarly, on the judicial level, the rarity of case applications in this area also highlights the issue. Here, we find ourselves obliged to point out the most significant conclusions we have reached, as well as the key proposals that could assist our legislator when drafting new legislative texts or reviewing existing ones, in the hope that they support our esteemed judiciary in adopting distinctive judicial approaches regarding the regulation of this right in light of freedom of expression and freedom of the press, and that they contribute to the development of jurisprudential studies related to this subject. Accordingly, we first present the conclusions and then outline the proposals as follows:

Firstly, Deductions: - The right to the presumption of innocence did not originate within the scope of French civil law through the text of Article 9-1; rather, it was re-expressed by the French legislator, which means that this right transitioned from its criminal law environment and its association with it, without severing its connection, to then flourish within the civil environment, acquiring the status of a right in the domain of civil law as a category of rights belonging to private law, specifically civil law, to which the term 'right' applies according to the concept of private law. Such legislative recognition represents the culmination of the path that the development of rights has undergone on one hand, and the achievement of the objective sought by its proponents, which is to provide a stable framework for greater protection within the scope of civil law, on the other hand.

- The presumption of innocence is guaranteed in the criminal sphere, whether it concerns a natural person or a legal entity, as criminal liability is no longer limited solely to a natural person. Whenever such procedures are taken against an individual, they serve as an effective protection whose importance we do not doubt. However, criminal proceedings—starting from inquiry and investigation to trial, which ultimately result in the individual's acquittal—are not sufficient to remove the harm caused to the person who is later found innocent. This is because the harm and injury may occur when the person is accused based on preconceived assumptions of guilt, even before a conviction is issued, particularly through publication in newspapers, the Internet, or other media outlets, which by itself constitutes a wrongdoing—violating another's right, namely the individual's right to reputation—which necessitates compensation. Therefore, the recognition of this right within civil law is necessitated by human nature in order to protect individuals at a minimum level, ensuring protection against violations of the presumption of innocence and damage to reputation caused by the actions of others.



-The issue of the conflict between the right to the presumption of innocence on the one hand and freedom of expression and the right to information on the other hand raises ambiguity, particularly regarding the media's right to freedom of expression and the public's right to information. The collision between these two rights is a reality, and inevitably so, as each right is restricted by the other, almost as if we are facing a kind of mutual limitation, especially in societies where the media play a prominent role. This necessitates precise balancing, or at least the matter of reconciling these rights when they conflict. It is a matter that imposes itself on researchers and the judicial authority to find solutions that are of great importance in achieving balance without favoring one over the other.

- The protection afforded to the right to the presumption of innocence is a civil protection that is enforced through a civil lawsuit before a civil judge, even though it is possible in this context to refer to the general rules on liability for acts deserving compensation according to the provisions of Article 124 of the Civil Code or Article 182 bis, which states: 'Compensation includes any harm to freedom, honor, or reputation.' Considering that an infringement on the right to the presumption of innocence is an infringement on the right to reputation, even though the two rights are entirely separate in theory and practice, this does not affect the protection provided under criminal law, nor the crime of defamation arising from it.

- In the absence of an explicit text guaranteeing civil protection for the presumption of innocence in civil law, as established by the French legislator in Article 9-1 of the Civil Code, a person has no option but to resort to the right of reply provided in the current organic law concerning Algerian media, as stipulated in Article 37, which states: 'Without prejudice to the applicable legislative and regulatory provisions in this area, every body or natural or legal person subjected to false claims that could harm their honor or reputation has the right to exercise their right of reply.'

Second, the proposals:

- The necessity for the Algerian legislator to enshrine the right to the presumption of innocence within the provisions of civil law, despite the legal value this principle already enjoys and its mention in the Algerian Constitution, as well as in the Code of Criminal Procedure regarding measures taken against a person, including criminal investigations and trials. This would guarantee this right similarly to the French legislator, who uniquely provided a modern regulation of this right in civil law, with more explicit and clear provisions. This should be included within civil law provisions as a necessity to implement the constitutional text in subsequent amendments. Such long-awaited legislative recognition aims to establish strong and effective protection related to the social dimension, as any violation of this right is simultaneously an attack on public order. Notably, the Algerian legislator has already stipulated the protection of this right within Article 35/10 of the current organic law concerning media, which states: 'During the exercise of his journalistic activity, the journalist must strictly respect the rules of professional ethics and conduct outlined in Article 34 above, and additionally...



the journalist must in particular refrain from Infringement on private life and the presumption of innocence." The judiciary also has a role in achieving a fair balance between the right to freedom of expression and the right to the presumption of innocence, and in setting a standard and framework for balancing between them, should it be possible for it to consider such matters in the future, which the researchers see as extremely important.