

The Establishment of Administrative Appellate Courts in Algeria Enhancing the Status of Administrative Justice

KECHAR Zakaria**

University of Kasdi Merbah Ouargla, (Algeria)

Received: 20/07/2025

Accepted: 09/01/2026

Published:20./01/2026

Abstract

The establishment of administrative appellate courts in Algeria marks the culmination of a long reform process aimed at solidifying the foundations of the administrative judiciary. With this development, the hierarchical structure of the administrative judiciary has been completed, effectively embodying the principle of two-level litigation at the administrative level. This is considered a significant step in supporting and strengthening the administrative judiciary. These newly established courts are expected to play an crucial role in promoting effective administrative justice, as they process exclusive jurisdiction over appeals. This research paper analyzes the role of appellate administrative courts by highlighting their importance and the impact of their organization on their effective functioning, their ability to enhance the efficiency of the administrative judiciary, increase its productivity, and ensure the quality of its decisions. Adopting an analytical approach by examining the relevant legal texts, it has become evident that their organizational structure, management flexibility, and jurisdiction enable them to advance administrative justice and ensure the quality of first-instance court rulings, given the expertise of their members. However, the nature of their collegial formation may negatively impact their productivity.

Keywords: administrative Appellate courts, administrative judiciary, principle of two-tier litigation, appeal the judgment, subject-matter.

* ***Corresponding author.***

The Establishment of Administrative Appellate Courts in Algeria Strengthening the Position of Administrative Justice/: KECHAR zakaria.

Introduction:

Since gaining independence, the Algerian administrative judiciary has undergone several significant reforms regarding the institution tasked with adjudicating administrative disputes. This evolution has gone through multiple phases, starting with the continuation of the legal framework inherited from French colonial rule, as stipulated by Law No. 62-157 (Official Journal N^o 2, 1962). Initially, the three administrative courts established during the colonial period were maintained as first-instance courts for administrative disputes in Algiers, Constantine, and Oran. Additionally, an administrative chamber was established within the Supreme Council in 1963 (Official Journal N^o 1, 1963) to hear appeals against decisions issued by these courts and, in some cases, to act as a court of cassation.

This system remained largely unchanged until the judicial reform of 1965, which introduced Ordinance No. 65-278 (Official Journal N^o 96, 1965) on judicial organization. This reform abolished the three administrative courts and transferred their jurisdiction to newly established judicial councils. The administrative chambers of the judicial councils in Algiers, Oran, and Constantine were designated as first-instance courts for administrative disputes involving full jurisdiction, while the administrative chamber of the Supreme Council was given the authority to decide, as a first and final instance, on legitimacy claims (such as annulment, interpretation, and review of administrative decisions). Additionally, it served as an appellate body for decisions issued by administrative chambers of judicial councils and as a court of cassation for final decisions from these chambers and certain special administrative jurisdictions.

The enactment of Law No. 90-23 (Official Journal N^o 36, 1990) amending the Code of Civil Procedure did not substantially alter the institutional structure of administrative judicial bodies. However, they did affect jurisdictional distribution, particularly concerning annulment claims. Some administrative chambers were upgraded to regional chambers (Algiers, Oran, Constantine, Ouargla, and Béchar), which were granted additional jurisdiction over annulment, interpretation, and legality review of administrative decisions issued by governors. Consequently, administrative chambers in judicial councils became the general first-instance courts for administrative cases, except for matters assigned to the Supreme Court's administrative chamber as a court of first and final instance under Article 274 of Law No. 66-154, or those exceptionally granted to ordinary courts under Article 7 bis of the Code of Civil Procedure, (Official Journal N^o 1966).

This framework remained in place until the adoption of the 1996 Constitution (General Secretariat of the Government 1996), which institutionalized judicial dualism by establishing the Council of State as the supervisory body for administrative judicial authorities under Article 152. Some scholars argue that this dualism is structural rather than judicial (Rachid 1999). The Council of State was also tasked with ensuring judicial consistency nationwide, with its additional competencies later defined by an organic law. This materialized through Organic Law No. 98-01 (Official Journal N^o 37, 2008), which established the Council of State as both a court of fact and law.

Regarding administrative courts, the 1996 Constitution did not explicitly mention them, though they were implied. This was later formalized by Law No. 98-02 (Official

The Establishment of Administrative Appellate Courts in Algeria Strengthening the Position of Administrative Justice/: KECHAR zakaria.

Journal N0 37, 1998), which created administrative courts with general jurisdiction over administrative disputes. However, this legal evolution maintained a two-tiered administrative judiciary: first-instance administrative courts and the Council of State as the appellate and, at times, first-instance court. As a result, the Council of State functioned as both a court of fact and law, and in some cases, as a court of cassation. Certain special laws even allowed it to serve as both a court of fact and law simultaneously, such as when ruling on cassation appeals against decisions of the Court of Accounts. This role was somewhat inconsistent with its legal nature.

Finally, the 2020 constitutional amendment (Official Journal N0 82, 2020), the constitutional legislator placed administrative justice in its rightful position by equating it in rank with ordinary justice through the provision for administrative courts of appeal. Consequently, the administrative judiciary now consists of administrative courts as the first-instance level, administrative appellate courts as the second-instance level, and the Council of State as the highest court, serving exclusively as a court of cassation rather than a court of fact.

The new judicial framework was organized under Organic Law No. 22-10 on judicial organization (Official Journal N0 41, 2022), while Law No. 22-07 on judicial division (Official Journal N0 32, 2022) specified the number and location of administrative appellate courts. Article 8 of this law established six administrative appellate courts in Algiers, Oran, Constantine, Ouargla, Tamanrasset, and Béchar, with administrative courts operating within their respective jurisdictions as stipulated in Article 9. Executive Decree No. 22-435 (Official Journal N0 84, 2022) defined the territorial jurisdiction of each administrative appellate court, while Law No. 08-09 on Civil and Administrative Procedures (Official Journal N0 21, 2008), along with certain special laws, outlined their competencies.

These texts collectively form the constitutional, legal, and regulatory framework governing Algeria's administrative appellate courts.

By creating these courts, the legislature has fulfilled the principle of two-tier litigation in administrative matters and reinforced the principle of equal access to justice. This gives rise to a central question: To what extent can these courts improve the resolution of administrative cases and contribute to the consolidation of administrative justice in Algeria?

To answer this question, this paper is divided into two sections. The first section is dedicated to shedding light on the implications and organizational structure of administrative courts of appeal while the second section is devoted to highlighting Jurisdiction and competences of administrative courts of appeal.

This study adopts an analytical methodology based on the interpretation of legislative texts governing the structure and jurisdiction of administrative courts of appeal.

I.The Implications and Organization of the Administrative Courts of Appeal

The constitutional decision to establish administrative appellate courts aligns with the requirements of justice and the principle of two-tier litigation, as stipulated in Article 165 (2) of the 2020 constitutional amendment: "The law guarantees two-tier litigation and defines its conditions and procedures."

This principle was further enshrined in the Civil and Administrative Procedure Code under Article 6: "Litigation is based on two tiers, unless otherwise provided by law."

This reform illustrates reflects the adaptability of public service institutions, particularly in response to the increasing complexity and volume of cases. Enhancing the judicial structure to match these demands ensures better case management and improves the quality of judicial services, ultimately benefiting litigants.

I.1. The Legal and Practical Implications of Establishing Administrative Courts of Appeal

The establishment of Administrative Courts of Appeal has significant legal implications for the structural framework of administrative justice. These courts introduce a second-tier judicial authority exclusively responsible for ruling on appeals. Such authority enhances the value and effectiveness of the appeal process, which was previously handled by the Council of State, alongside other types of appeals that competed for its attention.

I.1.1 Correcting the Structural Framework of Administrative Justice in Algeria

The principle of two-tier litigation requires a judicial body that can review cases anew with full jurisdiction over both facts and law. The establishment of administrative appellate courts fulfills this need, correcting the previous situation where the Council of State handled both appellate and cassation cases. This dual judicial function (as both court of fact and law) hindered the Council's ability to serve effectively as the guardian of fundamental rights against public authorities and affected the quality and efficiency of its rulings.

Unlike the French system, Algerian administrative appellate courts do not have advisory functions, allowing them to focus solely on adjudication. This special focus ensures timely and high-quality rulings, this ensures greater justice for litigants (DEGUERGUE 2006) , providing them with reassurance that their cases will be handled more effectively and promptly.

Based on the above, the establishment of administrative courts of appeal achieves one of the most fundamental principles of justice: equality before the judiciary. It is unreasonable for a litigant before the ordinary courts to have access to two levels of litigation in addition to a supreme court that examines the case on points of law, while a litigant before the administrative judiciary may have only two levels and sometimes just one with limited opportunity to present their case before a higher court for review on legal grounds.

I.1.2. Valuing the Appeal Against Judicial Administrative Judgments and Orders

The importance of appealing judicial administrative judgments and orders in achieving justice and reviewing first-instance rulings is well recognized. However, for a long time, the jurisdiction to hear appeals against administrative first-instance rulings issued by various administrative courts was held by a single body—the Council of State. This situation does not align with the significance of such appeals, especially considering the powers granted to the appellate body, which is tasked with reconsidering the case in terms of facts and law. This requires a considerable effort on the part of the appellate body to fulfill this mission, which is only possible if it is primarily dedicated to that role. This was not adequately feasible for the Council of State due to its numerous responsibilities, encompassing a variety of jurisdictions judicial, advisory and the multiple roles it plays, such as being a court of first and final instance, an appellate court, and a cassation court. This special nature has affected the activity of this chamber (the Council of State) as the sole judicial body competent to hear appeals against administrative rulings, and also impacted the parties involved in the original litigation (Mohammed 1995).

With the establishment of the Administrative Courts of Appeal, the legislature has addressed this shortcoming by assigning this role to the appellate administrative courts. According to the legal texts governing this appeal and defining the jurisdictions of these courts, their primary competence lies in adjudicating appeals against judgments and orders issued in the first instance by administrative courts. This is their fundamental and original function, as practiced in most judicial systems, including in civil courts such as the judicial councils.

However, for unspecified reasons, the legislature granted a jurisdiction that appears to be an exception to the rule to some of these courts, though not all. Specifically, the Administrative Court of Appeal of Algiers was given additional jurisdiction. In addition to serving as an appellate body, it also acts as a court of first instance concerning lawsuits seeking the annulment, interpretation, and review of the legality of central administrative decisions—those issued by central administrations, national public institutions, and national professional organizations. Consequently, the legislature has remained, in this respect, loyal to its previous approach, albeit with a slight modification, by allowing such cases to be heard in two degrees after they were previously heard in a single instance and solely before the Council of State acting as both the court of first and last resort.

I.1.3. Practical Implications of the Establishment of Administrative Courts of Appeal on Administrative Justice in Algeria

The primary objective behind the establishment of the Administrative Courts of Appeal lies in the pursuit of improving the performance of administrative justice both in terms of quality and quantity. This is achieved by alleviating the burden on the Council of State, thereby enabling it to better fulfill its role in evaluating the work of administrative judicial bodies and unifying judicial precedents at the national level. Additionally, it aims to expedite the resolution of administrative cases, increase the productivity and quality of administrative

The Establishment of Administrative Appellate Courts in Algeria Strengthening the Position of Administrative Justice/: KECHAR zakaria.

judicial bodies by allowing more time for careful examination and adjudication of cases within reasonable timeframes.

The key aspects in which the impact of having Administrative Courts of Appeal as a second degree of litigation may manifest in administrative justice can be outlined as follows:

- **Achieving better justice:** These bodies, which represent the second degree of litigation, will ensure the effective realization of justice by enabling litigants to present their case anew before a higher authority than the one that initially adjudicated it. This higher authority is presumed to have more expertise than the first instance court and is empowered to re-examine the case in all its aspects, thereby addressing any shortcomings in the judgment or rectifying any injustice that may have occurred at the first level.

- **Expediting the resolution of administrative cases:** The existence of multiple administrative courts of appeal allows for the distribution of appeals among them, thus reducing the caseload of each court. This contrasts with the previous situation where the Council of State was the sole body responsible for adjudicating such appeals, leading to a backlog that negatively affected the speed of case resolution. This development fulfills the legislator's stipulation for resolving substantive cases within reasonable timeframes and urgent cases as swiftly as possible.

- **Obtaining judicial decisions of higher quality:** The pressure previously experienced by the Council of State, as the only appellate authority for all first-instance rulings issued by administrative courts, forced it to prioritize speed over thoroughness in adjudicating appeals. This often resulted in hasty decisions at the expense of deliberation, leading to rulings that sometimes lacked formal and substantive quality.

- **Alleviating pressure on the Council of State:** One of the most significant benefits of establishing administrative courts of appeal is the relief it provides to the Council of State from the burden of adjudicating appeal cases that previously overwhelmed it. This enables the Council to better fulfill its role in evaluating the performance of administrative judicial bodies and in unifying judicial interpretations.

- **Bringing justice closer to litigants:** The creation of administrative courts of appeal and the granting of regional jurisdiction significantly ease the burden on litigants wishing to file appeals. Previously, individuals had to endure the hardship of submitting their appeals to the Council of State located in the capital (Fares 2023), incurring financial costs related to travel, legal representation, and court fees. Now, they can submit their appeals to the regional administrative court of appeal corresponding to the court that issued the original judgment or order. This reform encourages litigants to exercise their right to appeal, thereby promoting appeal procedures and giving the judiciary a second opportunity to review cases and rectify any ambiguities or injustices.

I.2. Organization of Administrative Courts of Appeal

The administrative courts of appeal are organized under Organic Law No. 22-10 on Judicial Organization, which defines their structural organization, composition, and bodies. Meanwhile, the amended and supplemented Code of Civil and Administrative Procedure, mentioned above, defines their jurisdiction. The reason for addressing the organizational aspect of these courts lies in the significant impact that organization has on the performance of the institution—whether positively or negatively. It is well known that a sound and well-

The Establishment of Administrative Appellate Courts in Algeria Strengthening the Position of Administrative Justice/: KECHAR zakaria.

structured organization contributes to better performance of its functions. The better and clearer the organization, the higher the quality of its outcomes.

Therefore, under this section, I will address the human composition and structural organization of the administrative courts of appeal, in order to highlight the impact of these two elements on the functioning of the administrative courts of appeal, whether in a positive or negative way.

I.2.1. The Human Composition of the Administrative Courts of Appeal

I will first address the composition of the administrative courts of appeal, which is divided into two categories: one concerning the judges responsible for adjudication, and the second concerning the State Commissioners (Public Commissioners). I will then discuss the nature of the adjudicative formation.

I.2.1.1. Categories of the Court's Composition

Article 30 of Organic Law No. 22-10 defines the composition of the Administrative Courts of Appeal, classifying it into two groups: judges of adjudication and government commissioners.

- Judges of Adjudication

These judges are responsible for ruling on cases and presiding over judicial panels. Their composition includes:

- A President, holding at least the rank of a State Council Advisor.
- One or two Vice Presidents, depending on the court's workload and its territorial jurisdiction.
- Presidents of chambers.
- Section presidents (when necessary), as courts may operate with chambers only, depending on workload.
- Advisors.

This category of judges is responsible for hearing appeals and cases brought before the Administrative Court of Appeal. The adjudicating panel is appointed by the head of the judicial body and is responsible for ruling on cases under Article 844/1 of the amended and supplemented Code of Civil and Administrative Procedure. The reporting judge, appointed by the president of the adjudicating panel (Article 844/2), prepares cases for adjudication by studying case files, contacting litigants, and overseeing the investigative process. The investigative nature of administrative litigation ensures a balanced procedure, given that public authorities are often the stronger party (Khaloufi 2013).

This stage aligns with the procedural characteristics of administrative litigation, which are primarily investigative (Masoud 2009). Ultimately, the reporting judge submits a comprehensive report before the case is referred to the State Counsel's Office under Article 846 of the same law. These procedures are common to both administrative courts and administrative courts of appeal, as stipulated in Article 900 bis 3 (Official Journal N° 40, 2022), which refers to Articles 838-873 of the aforementioned law.

The Establishment of Administrative Appellate Courts in Algeria Strengthening the Position of Administrative Justice/: KECHAR zakaria.

- Judges of the State Counsel's Office

This category includes:

- The State Counsel, holding at least the rank of a State Council Advisor.
- One or two Assistant State Counsels, depending on the court's workload.

The State Counsel represents the law, providing legal opinions on cases referred by the reporting judge (Article 897 of the amended and supplemented Code of Civil and Administrative Procedure). The State Counsel prepares a written report summarizing facts, legal arguments, and issues raised by the parties, offering legal solutions while making specific requests (Article 898).

The role of the State Counsel is crucial in ensuring the proper application and integrity of the law. Importantly, the law guarantees the independence of the State Counsel, allowing them to make unrestricted legal arguments (Moussuof 2003).

I.2.1.2. Nature of the Adjudicating Bench

The legislator has maintained the collegial system for adjudicating cases in administrative courts of appeal, similar to administrative courts. Article 900 bis 5 of the amended and supplemented Code of Civil and Administrative Procedure explicitly states:

The Administrative Court of Appeal shall rule in a collegial formation unless otherwise provided by law. It shall be composed of at least three (3) judges, including a president and two (2) assistants with the rank of advisor.

This system extends beyond cases on the merits to include urgent litigation, as stipulated in Article 917 of the same law. However, this requirement contradicts the urgent nature of summary proceedings, which are meant to be expedited, are temporary, do not address substantive rights, and do not have the authority of *res judicata* (Zakaria 2017-2018).

This legislative approach may negatively impact timely adjudication, violating the requirement for reasonable timelines in judicial rulings (Article 3, Paragraph 4). In urgent cases, decisions should be issued as soon as possible (Article 918, Paragraph 2).

A more effective approach would be adopting a single-judge system as the default while keeping collegial adjudication as an exception. While collegial panels ensure fairer rulings by incorporating multiple viewpoints, they process fewer cases due to the need for deliberation and voting. Conversely, single-judge rulings may have less assurance of fairness but significantly enhance efficiency and reduce case backlogs (Parisi 2007).

Balancing these two objectives ensuring reasonable adjudication timelines and maintaining judicial quality is crucial. Administrative cases already benefit from the reporting judge's preparatory work and the State Counsel's legal analysis, ensuring fairness and legal soundness. However, delays in case resolution often frustrate litigants, potentially depriving them of the benefits of their legal efforts. As one litigant put it, "Delayed justice is no different from injustice."

Thus, shifting to a single-judge system as the default, while keeping collegial adjudication as an exception, would enhance the efficiency of administrative justice and ensure cases are resolved within reasonable timeframes (Weber 2008).

I.2.2. Judicial Structures of the Administrative Courts of Appeal

The Establishment of Administrative Appellate Courts in Algeria Strengthening the Position of Administrative Justice/: KECHAR zakaria.

Judicial activities in the Administrative Courts of Appeal are conducted through chambers, which may be further divided into sections, as stipulated in Article 34 of Organic Law No. 22-10. The law states that these courts shall be organized into chambers, whose number and names are determined by an order from the President of the Administrative Court of Appeal, following consultation with the State Counsel.

The number of chambers is determined based on the court's workload. Similarly, chambers may be further divided into sections following the same procedures. Consequently, the number of chambers and sections varies between courts, reflecting differences in population density and administrative activity levels across regions.

The legislator's decision to grant the courts themselves the authority to establish chambers and sections is commendable, as they are best positioned to assess their needs. This flexibility enables courts to adapt to increasing case volumes and ensure timely adjudication. It also enhances the quality of judicial decisions by allowing judges sufficient time for careful deliberation.

However, the effectiveness of this approach depends on the availability of financial and human resources, which are sometimes beyond the courts' control. The establishment of new chambers or sections may be delayed due to budgetary constraints and staffing shortages. To address this, granting Administrative Courts of Appeal financial autonomy alongside administrative independence would enable them to respond more effectively to evolving *caseloads and judicial demands*.

II. Jurisdiction of the Administrative Courts of Appeal

The importance of the Administrative Court of Appeal is evident in the jurisdiction assigned to it. The significance of these jurisdictions determines the court's standing. This section aims to examine the jurisdiction of the Administrative Courts of Appeal, both in terms of subject-matter jurisdiction and territorial jurisdiction.

II.1. Subject-Matter Jurisdiction of the Administrative Courts of Appeal

The subject-matter jurisdiction of the Administrative Courts of Appeal exists in three forms: original jurisdiction (where it serves as an appellate body and sometimes as a court of first instance), ancillary jurisdiction, and jurisdiction for resolving jurisdictional disputes.

II.1.1. Independent Subject-Matter Jurisdiction of the Administrative Court of Appeal

The original jurisdiction of the Administrative Courts of Appeal is divided into two categories: one that is shared among all these courts and another that is exclusive to the Administrative Court of Appeal of Algiers.

II.1.1.1 Shared Jurisdiction of the Administrative Courts of Appeal

The Establishment of Administrative Appellate Courts in Algeria Strengthening the Position of Administrative Justice/: KECHAR zakaria.

The natural jurisdiction of appellate courts is to rule on appeals against preliminary judgments and orders issued by first-instance courts. This aligns with the principle of litigation in two degrees. Since Administrative Courts of Appeal serve as the second degree of litigation in the Algerian administrative judiciary, the legislator has granted them the authority to adjudicate appeals against judgments and orders issued by administrative courts. This is stipulated in Article 29 of Organic Law No. 22-10 and Article 900 bis of the amended and supplemented Code of Civil and Administrative Procedure:

The Administrative Court of Appeal shall have jurisdiction to adjudicate appeals against judgments and orders issued by administrative courts. It shall also have jurisdiction over cases assigned to it by specific legal provisions.

Before the enactment of Organic Law No. 22-11 (Official Journal N0 41, 2022), and Law No. 22-13, this jurisdiction was vested in the Council of State, which functioned as the second level of litigation in administrative disputes. This was based on either the Code of Civil and Administrative Procedure or Article 10 of Organic Law No. 98-01 before its amendment, as well as certain special laws.

This jurisdiction of the Administrative Courts of Appeal aligns with that of judicial councils in ordinary courts, where cases are reviewed as a second degree. These courts have the same powers as the first-instance courts but only within the limits of the appeal. They review cases in terms of both facts and law and issue a final decision if the appealed judgment ruled on the merits. However, if an appeal concerns a ruling of incompetence and the case is not ready for judgment (meaning the parties have not yet submitted their requests and defenses), the court may either remand the case to the original court or, if the case is ready for a decision, rule on it directly—provided it has jurisdiction as a second degree and the case is not one of those over which the first-instance court has exclusive and final jurisdiction.

II.1.1.2. Exclusive Jurisdiction of the Administrative Court of Appeal of Algiers

In addition to the shared jurisdiction mentioned above, the Administrative Court of Appeal of Algiers also has original jurisdiction over annulment lawsuits, interpretation lawsuits, and legality review lawsuits concerning administrative decisions issued by central administrations, national public bodies, and national professional organizations. This is stipulated in Article 900 bis (paragraph 3) of the amended Code of Civil and Administrative Procedure.

Compared to the nature of the Administrative Court of Appeal of Algiers, this jurisdiction constitutes an exception to the general rule, even though it is legally considered an original jurisdiction of this court rather than one derived from its nature.

Before the amendment of the Code of Civil and Administrative Procedures and the repeal of the relevant provisions of Organic Law No. 98-01, as amended and supplemented, this jurisdiction was exercised by the Council of State pursuant to Article 9 of the latter law. The Council of State used to consider such cases at first and final instance. However, the Administrative Court of Appeal of Algiers now considers these cases only at first instance and rules on them by decisions that may be appealed before the Council of State. Thus, following this amendment, the Council of State has become the second level of litigation for such cases. It can be said that although the legislator has designated this action as being brought before the second level, considering it as a first instance for such cases, it nevertheless allowed for

The Establishment of Administrative Appellate Courts in Algeria Strengthening the Position of Administrative Justice/: KECHAR zakaria.

the possibility of appealing the decisions issued in this regard. As a result, the original jurisdiction to adjudicate such actions at first and final instance was removed. Therefore, the legislator has respected the principle of two levels of litigation (Yasmine 2024), contrary to the situation before the amendment.

The legislator's rationale behind this arrangement appears to be practical. Since the central administration is based in the capital, and most national bodies and professional organizations are also headquartered there, the jurisdiction over their decisions should not be dispersed among multiple administrative courts. This approach ensures compliance with territorial jurisdiction rules. However, a question arises as to why this jurisdiction was granted to the Administrative Court of Appeal rather than the administrative court of the capital, which also meets the territorial jurisdiction requirement.

II.1.2. Ancillary Jurisdiction of the Administrative Courts of Appeal Due to Connection

The jurisdiction of the Administrative Courts of Appeal is not limited to their original jurisdiction; they may also acquire jurisdiction through ancillary means, such as connection between claims.

Connection refers to cases where different claims are filed either within a single lawsuit before one court or in separate lawsuits before different courts, but jurisdiction over some claims belongs to another court. Connection can be established based on subject-matter jurisdiction, particularly between an administrative court and an administrative court of appeal. The scenarios include:

- **First case:** If independent claims are filed in the same lawsuit before an administrative court, where some claims fall within its jurisdiction while others fall within the jurisdiction of the Administrative Court of Appeal, the president of the administrative court must refer all claims including those within its jurisdiction to the Administrative Court of Appeal if they are connected. (Article 809/1).

- **Second case:** If claims falling within the jurisdiction of an administrative court arise within a lawsuit before that court, but are connected to claims in another lawsuit before an Administrative Court of Appeal, the president of the administrative court must refer those claims to the Administrative Court of Appeal (Article 809/2).

II.1.3. Jurisdiction in Resolving Jurisdictional Issues

This does not concern conflicts of jurisdiction between different judicial bodies, whether in the form of positive or negative conflict. Rather, it pertains to determining and clarifying whether the administrative court to which the case has been submitted is indeed the competent court, or whether the Administrative Court of Appeal holds jurisdiction. This situation arises when the President of the Administrative Court deems that the claims fall within the competence of the Administrative Court of Appeal. In such a case, the President of the Administrative Court must refer the case, as soon as possible, to the Administrative Court of Appeal in order to decide on jurisdiction. The latter shall rule on the merits of the case if it considers that the dispute falls within its competence. If it finds otherwise, it refers the case to the competent administrative court to decide on all or part of the claims, pursuant to Article 813 of the Code of Civil and Administrative Procedures mentioned above. Once the

The Establishment of Administrative Appellate Courts in Algeria Strengthening the Position of Administrative Justice/: KECHAR zakaria.

Administrative Court of Appeal decides that jurisdiction lies with a particular court, the latter may no longer declare itself incompetent, in accordance with Article 814. This referral process embodies the principle of litigation in two instances and respects the jurisdiction of the administrative court, since the Administrative Court of Appeal does not have original jurisdiction. This solution prevents the issuance of conflicting judgments by different courts concerning the same issue.

II.1.4. Jurisdiction of the Administrative Court of Appeal in Matters of Jurisdictional Conflicts

According to Article 808/1 of the amended and supplemented Code of Civil and Administrative Procedures mentioned above, the Administrative Courts of Appeal are competent to adjudicate jurisdictional conflicts when such a conflict arises between two administrative courts falling under the territorial jurisdiction of the same Administrative Court of Appeal, through its president. This applies to all types of conflicts, whether negative or positive, and whether the matter involves conflicting judgments or a case of referral. These are the same types of situations that may occur between the ordinary and administrative branches of the judiciary, which are referred to the Jurisdictional Conflict Court. Organic Law No. 98-03 relating to the Jurisdictional Conflict Court details these situations and the procedures to be followed in order to resolve them. This law may serve as a useful reference in similar cases involving courts of the same judicial branch, by way of analogy due to the similarity in rationale.

II.2. The Territorial Jurisdiction of Administrative Courts of Appeal

Administrative Courts of Appeal have regional jurisdiction similar to other administrative judicial bodies when they are multiple. This jurisdiction allows them to extend their authority over all cases brought within its scope. This jurisdiction may sometimes be independent and at other times ancillary. Regional jurisdiction refers to "the authority of the judicial body to hear any dispute that arises within the territory covered by its jurisdiction" (Cheikha 2009). It is determined "by the connection of one of the legal relationship elements—parties, subject matter, or cause—with the territorial jurisdiction of a specific judicial body" (Belghith 2002).

II.2.1. The Independent Territorial Jurisdiction of Administrative Courts of Appeal

The amended and supplemented Code of Civil and Administrative Procedure does not specify the criterion for determining the regional jurisdiction of Administrative Courts of Appeal. However, Law No. 22-07 on judicial division states in Article 9 that Administrative Courts are established within the territorial jurisdiction of each Administrative Court of Appeal. Article 10 refers to regulations to determine the territorial jurisdiction of each Administrative Court of Appeal. Executive Decree No. 22-495 defines the territorial jurisdiction of each Administrative Court of Appeal, covering several Administrative Courts. Thus, the territorial jurisdiction of each of these courts is determined legislatively by whether an Administrative Court falls within its territorial scope.

The Establishment of Administrative Appellate Courts in Algeria Strengthening the Position of Administrative Justice/: KECHAR zakaria.

However, regarding the Court of Appeal of Algiers, in its primary jurisdiction, it remains subject to the same rule applicable to Administrative Courts, which is the rule of the defendant's domicile. This follows the general principle that when there is no specific provision, general rules apply. Article 803 of the Code of Civil and Administrative Procedure states: "The regional jurisdiction of Administrative Courts is determined according to Articles 37 and 38 of this law."

Article 37 states: "Regional jurisdiction belongs to the judicial body in whose jurisdiction the defendant's domicile is located. If the defendant has no known domicile, jurisdiction falls to the judicial body where the defendant's last known domicile was located. If a domicile is chosen, regional jurisdiction belongs to the judicial body where the chosen domicile is, unless otherwise provided by law."

This article refers to the defendant's domicile if they are an individual while providing solutions for different scenarios the plaintiff may face when filing a lawsuit.

Article 38 applies the same rule but in cases of multiple defendants, stating: "In the event of multiple defendants, regional jurisdiction belongs to the judicial body where one of the defendants' domiciles is located."

The same rule and observation mentioned above apply with respect to the exceptions stipulated in Article 804 of the same aforementioned law, if the case falls within the jurisdiction of this court as a court of first instance. This applies in cases where the dispute arises from a central administrative decision that affects a legal status. By referring to the text of the above-mentioned article, it provides eight exceptions to the rule of the defendant's domicile, based on which the territorial jurisdiction of the administrative court is determined. Some of these cases may also apply to the Administrative Court of Appeal of Algiers when it rules on the dispute as a first instance. These are as follows:

- In matters of taxes or duties, before the court within whose jurisdiction the tax or duty was imposed;
- In public works, before the court within whose jurisdiction the works were executed;
- In matters of administrative contracts, regardless of their nature, before the court within whose jurisdiction the contract was concluded or executed;
- In disputes concerning civil servants, state agents, or other persons working in public administrative institutions, before the court within whose jurisdiction they perform their duties;
- In matters of medical services, before the court within whose jurisdiction the services were provided;
- In matters of supplies, works, or leasing of technical or industrial services, before the court within whose jurisdiction the agreement was concluded or executed, if one of the parties resides there;
- In matters related to the execution of judgments issued by administrative judicial bodies, before the president of the judicial authority that issued the judgment subject to the execution dispute.

For other Administrative Courts of Appeal, regional jurisdiction in such cases is determined based on the Administrative Court that issued the contested ruling, falling within its territorial jurisdiction.

II.2.2. Ancillary Territorial Jurisdiction of Administrative Courts of Appeal Due to Connection

An Administrative Court of Appeal may acquire regional jurisdiction based on the connection between claims. Article 811 (paragraphs 2 and 5) of the amended and supplemented Code of Civil and Administrative Procedure states: If the connection involves two Administrative Courts of Appeal, the presidents of these courts shall refer the claims to the President of the Council of State... The President of the Council of State shall decide whether a connection exists and designate the Administrative Court of Appeal(s) that will hear these claims.

This provision suggests that one of the courts is not regionally competent for part of the claims. However, due to the connection between claims presented to it and others presented before another court of the same level, it becomes competent. This approach ensures the proper administration of justice, preventing contradictions between rulings of different courts on cases with the same parties and subject matter. It also reduces the burden on litigants and courts. When a case is referred from one court to another due to connection, the hearing of the case is postponed. Furthermore, orders issued by the President of the Council of State regarding the existence or absence of a connection are final and cannot be appealed, as stated in Article 812 (paragraph 3).

II.2.3. The Legal Nature of the Jurisdiction of Administrative Courts of Appeal

The nature of both types of jurisdiction (subject-matter and regional) in administrative courts has not differed. The legislator considers both matters of public order. Article 900 bis 4 of the amended and supplemented Code of Civil and Administrative Procedure refers to Article 807, which states: «his subject-matter and regional jurisdiction of Administrative Courts are matters of public order”.

This means that jurisdiction cannot be waived, violated, or agreed upon otherwise. It can be raised by either party at any stage of the proceedings, and the judge must also raise it ex officio. A lack of jurisdiction prevents the court from ruling on the substance of the case.

However, while the legislator unified the nature of subject-matter jurisdiction for both ordinary and administrative courts, it did not consider regional jurisdiction to have the same nature for both judicial systems. Although both are generally determined based on the defendant’s domicile -a rule established for the defendant’s benefit- there is a difference in procedural application. In ordinary courts, the defendant must raise an objection to regional jurisdiction before addressing the substance of the case, or the right to challenge it is lost. However, in administrative courts, this right does not expire even if the defendant discusses the substance of the case, and it can be raised at any stage of the proceedings.

The legislator did not explicitly state why regional jurisdiction in administrative courts is considered a matter of public order. However, this may be due to the involvement of the administration as a party, which is often the defendant. The aim may be to protect public funds, preventing the administration from incurring unnecessary costs to litigate before courts outside its jurisdiction.

The Establishment of Administrative Appellate Courts in Algeria Strengthening the Position of Administrative Justice/: KECHAR zakaria.

Conclusion

The establishment of Administrative Courts of Appeal represents a significant step toward strengthening administrative justice. It allows litigants to present their cases again before more experienced courts than those that issued the initial ruling. Additionally, it enables them to pursue a third level of litigation through cassation if necessary, providing greater reassurance that their cases are being thoroughly reviewed.

This reform enhances the role of the Council of State in unifying administrative judicial precedents, ensuring consistency in rulings, and serving as a reference for other administrative courts and legal scholars.

To ensure these courts fulfill their role effectively, several recommendations can be made:

1. Specializing judges in administrative law, ensuring they possess adequate knowledge of administrative procedures and governance.
2. Granting financial and administrative independence to Administrative Courts of Appeal, allowing them to function autonomously.
3. Reconsidering the judicial composition of these courts, favoring a single-judge system as the default and a panel of judges as an exception.
4. Assigning an advisory function to Administrative Courts of Appeal concerning regulatory decisions issued by governors or provincial councils.

References:

I. Books:

The Establishment of Administrative Appellate Courts in Algeria Strengthening the Position of Administrative Justice/: KECHAR zakaria.

- Amara Belghith, (2002), Concise Guide to Civil Procedures, Algeria, Dar Al-Ouloum for Publishing and Distribution, Annaba.
- Bachir Mohamed, (1995), Appeal Against Administrative Judgments in Algeria, Algeria, University Press Office, Ben Aknoun.
- Chihoub Massoud, (2009), General Principles in Administrative Disputes, Algeria, University Press Office, Ben Aknoun.
- Houam Cheikha, (2009), Appeal by Cassation before the Council of State According to the Provisions of the Civil and Administrative Procedures Code, Algeria, Dar Al-Houda, Ain M'lila.
- Mazouri Fares, (2023), Administrative Courts of Appeal and Their Role in Establishing the Foundations of Administrative Justice in Algeria, Algeria, Journal of Legal and Political Thought, University, Issue 2, Volume 7.
- Khloufi Rachid, (2013), Administrative Litigation Law – Part -, Algeria, University Press Office, Ben Aknoun, Algeria, 2nd Edition.

II. Periodicals, congresses, journals:

- Anne Weber, (2008), The Single Judge: Necessary for the Efficiency of Justice, French Review of Public Administration, 125/1, pp. 179-196.
- Cloudio Parisi, (2007), The Expansion of the Single-Judge System in Europe, International Review of Comparative Law. n° 3 2007, pp. 647-671.
- Boussof Moussa, (2003), The Role and Position of the State Commissioner System in the Council of State and Administrative Courts, Council of State Journal, Council of state N4, pp 35-45.
- Khelif Yasmine, (2024), Administrative Courts of Appeal: A Step Towards Reforming Administrative Justice in Algeria, Critical Review of Law and Political Science, Vol. 19, No. 02, Mouloud Mammeri University of Tizi Ouzou, pp. 404-421.
- Mazouri Fares, (2023), Administrative Courts of Appeal and Their Role in Establishing the Foundations of Administrative Justice in Algeria, Journal of Legal and Political Thought, Amar Telidji University of Laghouat, Issue 2, Volume 7, pp. 446-458.

III. University Theses:

- Kechar Zakaria, (2017-2018), Administrative Urgency as a Guarantee for Litigants' Rights, Doctoral Dissertation in Administrative and Financial Sciences, Algeria, University of Algiers 1, Faculty of Law Saïd Hamdine.