

## Updates in the Algerian administrative judiciary in light of the provisions of Law 22-13.

مستجدات القضاء الإداري على ضوء أحكام القانون 22-13.

Jamal karnache

Faculty of Law, Hassiba Ben Bouali University, Chlef, Algeria

j.kanache@univ-chlef.dz

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### Abstract :

This study examines the updated provisions outlined in Law 22-13, which amends and supplements the 2008 Civil and Administrative Procedures Law. Specifically, it scrutinizes these provisions' impacts on litigation procedures within administrative disputes and their consequential alterations to the administrative judiciary framework.

Our analysis highlights the alterations in the jurisdiction of administrative courts and urgent judiciary within the context of litigation procedures. Additionally, it underscores the implementation of judicial rulings directed at governmental bodies, particularly those entailing financial penalties. Furthermore, the study delineates the structural transformation within the administrative judiciary, notably the establishment of the Administrative Court of Appeal, a manifestation of a two-tiered litigation approach.

**Keywords:** Algerian administrative judiciary; Updates; Litigation procedures; Administrative Court of Appeal.

ملخص:

نتناول في هذه الدراسة الترتيبات الجديدة التي حملها مضمون القانون 22-13 المتعلق بتعديل وتتميم قانون الإجراءات المدنية والإدارية الصادر سنة 2008، وذلك بتسليط الضوء على هذه الترتيبات، سواء تلك التي عالجت إجراءات التقاضي في المنازعة الإدارية، أو ذلك التغيير الهام الذي مس هياكل القضاء الإداري. توصلنا إلى أن المستجدات التي شملت إجراءات التقاضي في المنازعة الإدارية ظهرت في إعادة النظر في اختصاص المحاكم الإدارية والقضاء المستعجل، كما ظهرت تلك المستجدات في تنفيذ الأحكام القضائية الصادرة ضد الإدارة وبالأخص تلك المتضمنة إدانة مالية. أما بخصوص التغيير الذي مس هياكل القضاء الإداري فقد تجسد في استحداث المحكمة الإدارية للاستئناف كتوجه يؤسس لمبدأ التقاضي على درجتين. الكلمات المفتاحية: القضاء الإداري الجزائري؛ المستجدات؛ إجراءات التقاضي؛ المحكمة الإدارية للاستئناف.

Auteur correspondant :jamal karnache .

**Introduction:**

The adjudication of administrative disputes in Algeria has undergone notable transformations, particularly during the colonial era. During this period, these disputes were primarily subjected to and adjudicated through the judicial framework inherited from France. Significantly, the establishment of administrative courts in Algeria, specifically in Oran and Constantine in 1953, marked a pivotal shift in the handling of these cases within the region.<sup>1</sup> This change continued until after independence. After independence, Law No. 62-157 of December 31, 1962 was issued.<sup>2</sup> The resolution of this matter was achieved by affirming the continuity of existing regulations from the occupation period, except in instances where they contradicted national sovereignty. Subsequently, this was succeeded by the enactment of Law No. 63-218.<sup>3</sup> According to the establishment, a Supreme Council was instituted, comprising four chambers, one of which is dedicated to administrative matters. Concurrently, three administrative courts were maintained to adjudicate administrative disputes, with their decisions open to appeal before the Supreme Council. Furthermore, various legal statutes were promulgated during this period, among which Order No. 65-278 of November 16, 1965, holds particular significance as it pertains to judicial organization.<sup>4</sup> This abolished the three administrative courts<sup>5</sup>, and their jurisdiction was transferred to the three administrative chambers located in the judicial councils of Algiers, Oran, and Constantine. As for the issuance of Order No. 66-154, which includes the Civil Procedure Code<sup>6</sup>, Article Seven (07) thereof stipulates granting jurisdiction to judicial councils (administrative chambers) to consider all cases, in which the state, a municipality, a municipality, or a public institution has jurisdiction. The administrative character is a party to it. Accordingly, this chamber has become responsible for examining administrative compensation claims with rulings subject to appeal before the Supreme Council.

Amidst these events, it became apparent that the Algerian judicial system did not inherently conform to a dual judicial structure. Instead, it embraced a system of chambers within the regular judicial framework, functioning as an administrative judicial body tasked with addressing and resolving administrative disputes. Consequently, the constitutional architect of Algeria recognized the imperative to reassess the country's judicial organization. In response, this figure announced the inception of an autonomous and comprehensive administrative judicial system, acknowledging the need for an independent entity solely dedicated to handling administrative matters.<sup>7</sup> This was embodied in the issuance of the Constitution of 1996<sup>8</sup>, which created the State Council as a judicial body evaluating the work of administrative judicial bodies. The constitution simultaneously established lower administrative courts as integral components of the administrative judicial system. Additionally, it introduced the Conflict Court, a specialized judicial entity responsible for adjudicating disputes arising from jurisdictional conflicts between the ordinary and administrative judiciary. Subsequently, the Algerian legislature enacted Law No. 08-09 concerning the Civil and Administrative Procedures Code, further delineating procedural regulations and guidelines governing civil as well as administrative legal processes.<sup>9</sup> This was specified special procedures for administrative disputes. Thus, the dual judicial system was explicitly adopted. Nonetheless, the practical reality revealed several stumbles and procedural gaps in the administrative matter, which required the intervention of the Algerian legislator in order to remedy the situation, which was evident through Law No. 22-13 amending and supplementing Law No. 08-09<sup>10</sup>.

**Significance of the research**

The significance of this subject is rooted in the pivotal role held by the administrative judiciary within the broader judicial system. The administrative judge serves as a crucial arbiter, aiming to redress the equilibrium between individual litigants and the public administration vested with extensive authority. Consequently, the focus lies on elucidating the advancements encapsulated within Law 22-13 concerning the operations of the Algerian administrative judiciary. This entails emphasizing its function in safeguarding rights and liberties while concurrently upholding the public interest.

### **Rationale of the research**

The rationale behind selecting this topic primarily stems from its inherent complexity, necessitating extensive research and exploration. The contemporary nature of the legal text being examined demands thorough reading and analysis to comprehend the full extent of its implications. Specifically, this study aims to assess how this new legal framework, within Law No. 22-13, addresses the deficiencies that previously hindered the effective implementation of Law No. 08-09.

### **Statement of the problem :**

To what extent did the Algerian legislator, on the occasion of issuing Law 22-13, regulate the procedures followed by the administrative judiciary? How can the procedural deficiencies raised previously be addressed?

### **Methodology of the research :**

The study employs both the descriptive and analytical methods to comprehensively examine the subject matter. The descriptive method facilitates the detailed exposition of various research aspects, while the analytical approach enables a meticulous analysis of legal texts pertinent to this topic, particularly focusing on Law 22-13. This combined methodology aims to provide a thorough exploration and understanding of the subject matter, emphasizing both the comprehensive overview and in-depth scrutiny of relevant legal materials.

To comprehensively grasp the advancements in the Algerian administrative judiciary regarding the provisions outlined in Law 22-13, this study will be structured into two primary sections. The first section will focus on elucidating the evolutions within litigation procedures concerning administrative disputes. This section aims to provide an in-depth exploration of the changes and developments that have transpired in this domain. Meanwhile, the second section will delve into an examination of the Administrative Court of Appeal, elucidating its significance as a step towards institutionalizing the principle of a two-tiered litigation system.

### **Section I: Updates on litigation procedures in administrative disputes**

The administrative dispute holds a distinct nature, primarily due to its inherent imbalance. This conflict arises between the administration, wielding the powers of public authority, and the individual, often deemed the weaker entity in this equation. Consequently, the role undertaken by the administrative judge in overseeing such disputes differs significantly from that of the ordinary judge. Unlike the accusatory nature of civil judicial procedures, the administrative procedure adopts an investigative approach. The administrative judge operates with the objective of rectifying the inherent imbalance within the relationship between the administration and the individual contesting it. Their role revolves around restoring equilibrium to this unbalanced dynamic rather than following the accusatory format typical in civil judicial proceedings.

Based on this, litigation procedures must take into account the specificity of the administrative dispute, which is the approach sought by the Algerian legislator under Law 22-13 - whether in terms of reconsidering the jurisdiction of the administrative courts and the urgent judiciary; Or in terms of implementing judicial rulings issued against the administration

#### **A) Reconsidering the jurisdiction of administrative courts and urgent courts**

An administrative dispute encompasses conflicts involving a party associated with public law or cases where the outcome of their actions seeks to serve the public interest. These disputes fall under the purview of the judiciary specialized in adjudicating administrative matters, following distinct procedural protocols tailored for resolving such disputes.<sup>11</sup>

Therefore, in line with the Algerian legislator's perspective on the procedures governing administrative disputes, and recognizing the gaps present in Law 08-09 concerning this matter, amendments introduced in Law 22-13 aimed to reassess the jurisdiction of administrative courts. Simultaneously, these amendments also addressed aspects pertaining to the urgent judiciary, ensuring its incorporation into the reform process.

### *1 - Reconsidering the jurisdiction of administrative courts:*

The administrative courts, as stipulated by Article 800 of the Code of Civil and Administrative Procedures, serve as the primary public jurisdictional entities for resolving administrative disputes, aligning with the fundamental principle of public law<sup>12</sup>, meaning that they have general jurisdiction to decide administrative disputes. They were established in accordance with Organic Law No. 98-02 relating to administrative courts<sup>13</sup>, and Executive Decree No. 98-356. dated 11/14/1998, specifying the modalities for implementing the provisions of Law No. 98-02, amended by Executive Decree No. 11-195 of May 22, 2011.<sup>14</sup> Administrative courts are considered the first level in litigation in administrative disputes, and thus they form the basis of administrative judicial organization.

In reviewing the provisions within Law 22-13 concerning the Administrative Court, it becomes evident that our legislator, through Article 800 of the same law, reaffirms the Administrative Court as the primary jurisdiction for handling administrative disputes. However, a new paragraph has been introduced, previously absent, stating: "With the exception of disputes referred to other judicial authorities." Although the Algerian legislator did not explicitly delineate these disputes delegated to other judicial bodies, it appears that these might pertain to cases falling within the jurisdiction of the newly established Administrative Court of Appeal, as designated by the same law. Furthermore, there are exceptions to the general jurisdiction of the Administrative Court, despite it being an administrative entity. A party to the dispute, which is the exception stipulated in Article 802 of the Code of Civil and Administrative Procedure<sup>15</sup>, which concerns disputes related to every lawsuit related to liability aimed at requesting compensation for damages resulting from a vehicle belonging to the state, or to one of the states, municipalities, or public institutions of an administrative nature, then the jurisdiction It is referred to the ordinary judiciary, and it also applies to road violations. Where is the jurisdiction granted, in her view, to the ordinary judiciary? And also those cases that fall under the jurisdiction of the ordinary judiciary under special texts<sup>16</sup>.

Article 800 of Law 22-13 introduces a notable expansion in jurisdiction by including disputes between national public bodies and national professional organizations within the purview of administrative courts. Previously, these disputes, involving the state, state-related entities, municipalities, or administrative public institutions, were adjudicated by the State Council, serving as the initial and final arbiter. This alteration signifies a significant shift in approach, extending the jurisdiction of administrative courts to encompass a broader spectrum of disputes previously under the exclusive purview of the State Council.<sup>17</sup>

Nonetheless, what is striking is that this article stipulates that the Administrative Court has jurisdiction over disputes between national public bodies and national professional organizations, while Article 900 bis of Law 22-13 stipulates granting judicial jurisdiction in lawsuits to annul, interpret, and assess the legality of decisions issued by those bodies to the Administrative Court of Appeal . For the city of Algeria. This is confirmed by Article 10 of Law 22-11 amending and supplementing Organic Law No. 98-01 relating to the organization, functioning and powers of the Council of State<sup>18</sup>, which constitutes a conflict between the jurisdiction of the Administrative Court and the Administrative Court of Appeal of the city of Algiers.

In our analysis of this conflict that occurred by the Algerian legislator, we notice that the legislator's intention was that the administrative court adjudicates the disputes of those bodies when the dispute is not related to the cancellation, interpretation, and assessment of the legality of the decisions issued by them, and for example in full judiciary lawsuits, since this type of Cases are referred to the Administrative Court, even if the administrative body party to the dispute is central, according to the content of Article 801 of the Civil and Administrative Procedures Law.

Indeed, the administrative court is tasked with adjudicating disputes involving these bodies, even when the issue pertains to annulling, interpreting, or evaluating the legality of decisions made by them. This extends to cases involving regional professional organizations, even though they lack a central character. Article 801, as amended by Law 22-13, adopts this approach. However, this stance raises practical challenges concerning legal representation in these matters.

The notable change in Article 801 is the removal of the term "other administrative departments of the municipality," leaving only the mention of the municipality itself. This alteration is perceived as a more precise and appropriate approach. The rationale behind this adjustment lies in the understanding that administrative departments affiliated with the municipality lack individual eligibility for litigation. Consequently, legal representation rights are exclusively granted to the municipality, which possesses legal personality. Hence, stipulating these administrative departments beforehand becomes redundant and irrelevant.

Certainly, with the amendment introduced by Law 22-13, the option to file a lawsuit electronically has become available<sup>19</sup>, including the permissibility of directing notes and additional documents submitted after the session and directly before the conclusion of the investigation to the other litigants in the same way. This is a vision that is in line with the newly developed procedural systems. In the activity of the judicial system, which the Algerian legislator was previously guided by issuing the Modernization of Justice Law in 2015<sup>20</sup>. On the other hand, it was noted that what was also new was the legislator's abandonment of the obligation to sign the petition filed against the administration before the Administrative Court by a lawyer. Perhaps this is due to the introduction of the Administrative Court of Appeal, and therefore as long as there is litigation on two levels, the requirement for the lawyer's signature is not necessary before the first instance. This is the same procedure followed before the ordinary judiciary.

## ***2 - Reconsidering some rules related to urgent justice:***

Expedited judiciary is defined as: "Temporary settlement of disputes for which there is a fear that time will be lost, which does not affect the basis of the right, but is limited to ruling on taking a temporary measure binding on both parties, with the intention of preserving the existing conditions, respecting apparent rights, or protecting the interests of the two disputing parties."<sup>21</sup>

The urgent judiciary serves as a crucial mechanism in safeguarding interests and rights. In line with the evolving landscape and to align the procedures and regulations governing this judiciary with contemporary developments, our legislator intervened through Law 22-13. This intervention aimed to adjust specific rules and procedures.

### ***\* the decisive lineup in urgency:***

Regardless of the nature of urgency in the urgency system, the legislator generally preferred, through Law 08-09 before its amendment,<sup>22</sup> to decide on urgent requests by the collective formation entrusted with deciding on the subject matter. However, the legislator retracted this approach through Law 22-13, where he distinguished between the formation set for consideration of the urgency matter according to the type of judicial authority before which the dispute is brought, as Article 917 of the same law affirmed that the urgency matter is considered at the court level. The administrative court is reviewed by its president, while the collective formation is considered at the level of the Administrative Court of Appeal, headed by the president of the latter. The collective formation is also the competent one at the level of the State Council.

Indeed, the notable change made by the legislator in this context involves transferring the responsibility of addressing urgent matters at the administrative court level from a collective formation to an individual judge. This shift is commendable, considering that assigning cases of urgent nature to a collective formation at the administrative court level was deemed unsuitable or unfavorable. On the one hand, the work of the urgent judge is to take urgent measures that do not infringe on the basis of the right, and on the other hand, the urgent judge is a judge of a priori, and the measure he orders is deduced from the apparent examination of the file papers, and it is certain, as some have argued, that entrusting the collective formation with deciding on urgent<sup>23</sup> requests. It will turn its work into something like a pre-arbitration of the subject of the dispute.

### ***\* developments in the rules of investigation in the matter of urgency:***

One of the advancements introduced in Law No. 22-13, articulated in Article 939, pertains to the jurisdiction granted to validate factual claims through a court order upon request, even in the absence of a preceding administrative decision. Additionally, this law extended this authority to judicial experts, supplementing the previously mandated judicial report. Under this provision, the

judge is empowered to, beyond their original mandate of fact-finding, engage an expert or a judicial reporter to promptly verify facts essential to a dispute brought before the judicial authority.

It's evident from Article 940 that, upon petition, even without a preceding administrative decision, the judge overseeing urgent matters possesses the authority to order any necessary investigative measures. Unlike the prior version, which specifically referenced conducting experiments, this revised article doesn't specify the nature of the required measure. This approach appears logical and fitting for urgent matters, enabling the judge to order any measure deemed suitable to address the dispute before them.

**\* *Appealing urgent orders:***

The amendment to Article 936 introduces a significant change regarding orders issued under the urgent article—they are now subject to appeal. Previously, there were exceptions for certain orders exempt from appeal, but this alteration signifies a shift towards adopting the principle of two-level litigation. This change aims to rectify any errors made by the initial judge, especially concerning facts related to urgent matters that might be challenging to rectify if mishandled initially. Regarding the deadlines for appeal <sup>24</sup>in this scope, orders issued by the Administrative Court are subject to appeal before the Administrative Court of Appeal within fifteen days from the date of official notification or notification. In this case, the Administrative Court of Appeal shall decide within a period not exceeding ten days.

Urgent orders issued initially by the Administrative Court of Appeal of Algiers can be appealed before the Council of State within a fifteen-day window starting from the official notification. Should an appeal occur, the Council of State is required to make a decision within a maximum period of fifteen days. This process ensures swift resolution and response to urgent matters within a defined timeframe.

**B) Updates on the implementation of judicial rulings issued against the administration**

The implementation of a judicial ruling signifies the resolution of disputes brought before the judiciary. Upon securing the executive copy of the ruling, either in person or through a private agency as detailed in Articles 601 and 602 of the Civil and Administrative Procedures Law, and obtaining a certificate indicating no objection and/or appeal, the individual must engage a judicial officer to initiate the implementation process. The judicial officer's report informs the relevant administration tasked with executing the contents of the judicial ruling. <sup>25</sup>

A fundamental constitutional concept is to abide by the judge's decision. <sup>26</sup> However, the practical reality revealed several problems regarding the implementation of judicial rulings, especially those that included a financial condemnation against the administration, so the Algerian legislator sought, through Law 22-13, to reconsider the rules for implementing this type of rulings. Certainly, provisions related to mechanisms for compelling the administration to enforce judicial rulings were presented.

***1 - Updates on the implementation of judicial rulings containing a financial conviction against the administration:***

The repeal of Law 91/02 is one of the most significant changes brought about by Law 22-13 in order to carry out court decisions that involve a financial conviction against the administration. <sup>27</sup> which regulated this issue, and its introduction of new procedures that replaced the procedures that were followed under Law 91-02 included in Article 986 of Law 22-13. Where did our legislator try to correct the shortcomings that marred the previous law in order to ensure the implementation of this type of provisions?

As per Article 986 of Law 22-13, when a ruling or decision carries the force of enforcement, particularly a decision mandating a public entity to pay a specified monetary amount to a private individual, the judicial officer is responsible for officially notifying the concerned individual regarding the execution of this obligation. Upon this notification, the individual is expected to settle the specified amount indicated in the executive bond along with associated expenses within a timeframe of two months.

If the executed individual refuses to comply with the execution order after the specified deadlines have passed, the judicial officer is required to draft a report detailing this refusal to

execute. Subsequently, a collection request, accompanied by a written petition, must be submitted to the state treasurer stationed at the convicted party's headquarters. This petition should contain specific details or supporting documentation pertinent to the case.

- A copy of the executive instrument
- a record of the official notification of the obligation to fulfill
- a record of refusal to implement
- the creditor's current account number.

According to the same article, the Public Treasury Secretary has the authority to initiate the automatic withdrawal of the owed amount, including expenses, from the accounts of the convicted body. Subsequently, this amount can be transferred to the creditor's account within a maximum timeframe of three months from the date of submitting the application. Additionally, the Public Treasury Secretary is empowered to request supplementary information from the judicial record or the issuing judicial authority required for implementing the judgment or decision within the specified deadlines outlined in the preceding paragraphs.

If a judgment or judicial decision involves monetary amounts against public departments or bodies, the public administrations or bodies benefiting from such a judgment or decision have the right to request the Public Treasury Secretary stationed at the convicted body's headquarters to collect those specified sums. This process enables the relevant public entities to pursue the collection of owed amounts in accordance with the judgment or decision issued by the court.

The collection request is directly submitted by the beneficiary of the ruling or decision to the state treasurer stationed at the convicted party's headquarters. This request must be accompanied by a written petition, supported by the following documentation or materials:

- A copy of the executive document.
- All documents or documents that prove that all efforts to implement the ruling or decision remained for four months without result from the date of the assignment to fulfill .
- Also, before the transfer process, the Treasurer may request additional information from the judicial authority that issued the ruling or decision required to be implemented within the period specified in 04 months.

From the implementation procedures outlined in Article 986 of Law 22-13, it appears that they bear similarities to those established by Law 91-02, particularly concerning the role of the judicial report in informing the administration of the ruling or decision issued against it. However, a notable addition is the requirement for a report of abstention in cases where the party abstains from implementing the decision within two months of notification. Nevertheless, what stands out as new under Law 22-13 is the differentiation in the collection procedures for financial sums when involving private law persons compared to those involving public law entities.

- It appears that the new legal approach regarding the involvement of the Treasurer in collecting financial sums, as mandated by Law 22-13, presents a more structured method compared to the challenges encountered under Law 91-02. This revised procedure alleviates the burden previously placed on the beneficiary, who, under the previous law, had to approach the Treasurer after receiving the report of abstention from the judicial officer.

-However, despite this improvement, the new legal procedures are still characterized by a protracted collection process. The beneficiary is required to wait for two months for the administration to implement the ruling, during which time the administration isn't legally bound to comply. Moreover, there might be additional delays if the Treasurer requests further information to verify the authenticity of submitted documents. This extended period isn't conducive to the interests of the convicted party, leading to prolonged uncertainties and potential delays in obtaining the owed sums.

- Indeed, if the Treasurer refuses to pay the owed amount, it appears to be a legislative oversight. The legislator could have intervened by potentially incorporating measures such as allowing for an

appeal in such instances. Additionally, the absence of a role for the administrative judge is noticeable in addressing this issue. Activating the administrative judge's role could be more fitting by implementing measures that compel the Treasurer to fulfill payment obligations, balancing the needs of the public interest while safeguarding individuals' rights. This could potentially bridge the gap between administrative compliance and individual rights protection within the legal framework.

## ***2 - Updates on mechanisms to force the administration to implement judicial rulings:***

One of the primary challenges during the implementation of administrative judiciary rulings against the administration is often rooted in the administration's reluctance to comply. This reluctance is exacerbated by the administration's authority and the privileges it enjoys as a public entity, leading to undesirable consequences in executing judicial rulings against it. Consequently, the Civil and Administrative Procedures Law of 2008 introduced mechanisms to compel and bind the administration to adhere to judicial rulings issued against it. The implementation of these mechanisms was primarily realized through the mechanism of issuing direct orders.<sup>28</sup> to the administration as well as the threatening fine<sup>29</sup>.

Law 22-13 made reference to these two methods in Article 987, which said the following: "It is not permissible to submit a request to the administrative judicial authority in order to order taking the necessary measures to implement Its final ruling or decision and requesting a threatening fine to implement it when necessary, unless implementation is refused by the convict. Accordingly, a period of three months has passed, starting from the date of notification Official ruling. However, with regard to urgent orders, a request may be submitted for them without a deadline . In the event that the administrative judicial authority specifies in its ruling or decision subject to execution a deadline for the convict to take certain implementation measures, the application may not be submitted except after the expiration of this deadline.

Upon further examination, it can be shown that this piece was written exactly as it was before to the change, and only the "administrative judicial authority" was amended instead of the "administrative court" that was mentioned previously. This is a proper amendment, because the wording of the article before it was amended is a wording that is explicitly understood. Some have also stated<sup>30</sup> unequivocally that the authority to order enforcement measures and the threatening fine is limited to the Administrative Court and not the State Council, and this meaning cannot be imagined legally, and does not require proof of its corruption, as long as it violates not only the title of Chapter Two, which is included in Article 987 , which states : It contains "the rulings applied to the administrative courts and the State Council," but it contradicts the provisions of Articles 978 to 985 forming Chapter One of Part Six relating to the implementation of the rulings of administrative judicial authorities of Book Four regarding the procedures followed before administrative judicial authorities. The practical reality also emphasized the jurisdiction of the State Council<sup>31</sup> to issue orders to the administration and impose the threatening fine.

Therefore, the legislator's choice of the term "judicial authority" was more precise and fitting as it encompassed a broader jurisdiction beyond solely the Administrative Court. This encompassed the State Council as well, and currently extends to the Administrative Court of Appeal, allowing the issuance of orders to the administration and the imposition of threatening fines.

## **Section II: The Administrative Court of Appeal is an innovation towards establishing the principle of two-level litigation**

The introduction of the 1996 Constitution signaled a clear direction for the Algerian judicial system by embracing a dual judiciary approach. This was manifest through the establishment of the Council of State as a body responsible for appraising the functions of administrative judicial bodies, alongside the creation of administrative courts operating as lower administrative entities. Additionally, a Dispute Court was instituted to arbitrate conflicts of jurisdiction. Despite the adoption of this dual judiciary framework, practical challenges have emerged, particularly within the State Council, designated as an appellate body in comparison to the administrative courts. The State Council holds jurisdiction over cases for both initial and final decisions, contributing to delays

in case adjudications. This delay has hindered timely resolutions on one hand. Additionally, the State Council has somewhat deviated from its intended role of evaluating the performance of administrative judicial authorities.

Accordingly, the 2020 constitutional amendment<sup>32</sup> attempted to reduce pressure on the Council of State, by creating a new administrative judicial body, the Administrative Court of Appeal, which was also confirmed by Law 22-10 relating to judicial organization<sup>33</sup>, as well as Law 22-13 amending the Law of Civil and Administrative Procedures. The legal text stipulates the organization and powers of this judicial body. The procedures for filing a lawsuit before it also have their own controls.

#### **A) Organization and powers of the Administrative Court of Appeal :**

To fulfill the provisions outlined in Article 179 of the Algerian Constitution, which designate the Council of State as the body responsible for assessing the performance of administrative courts of appeal, administrative courts, and other bodies handling administrative affairs, the Administrative Court of Appeal was instituted pursuant to Organic Law 22-10. This court serves as an appellate body for judgments and orders issued by administrative courts and holds competence in adjudicating cases authorized to it through specific legal texts<sup>34</sup>. As well as the judicial<sup>35</sup> division law. Accordingly, the Administrative Court of Appeal is a new constitutional judicial body within the structures of the administrative judiciary, with a special structure or organization. It also looks into certain disputes according to the jurisdiction granted to it by law.

##### ***1- Organization of the Administrative Court of Appeal***

From the text articulated in Article 8 of Law 22-07 concerning judicial division, it's apparent that there are six administrative courts of appeal. These courts are situated in the following locations: Algiers, Oran, Constantine, Ouargla, Tamanghasset, and Béchar. Notably, the legislator strategically established the headquarters of these Administrative Courts of Appeal in locations previously housing the five regional chambers<sup>36</sup>, with the addition of another headquarters for an Administrative Court of Appeal in the state of Bashar.

Perhaps the legislator's approach in this regard aims to bring these judicial authorities closer to the litigant, taking into account the jurisdiction of an administrative court of appeal. On the other hand, expanding the number of administrative courts of appeal would accelerate the pace of adjudicating disputes that fall under their jurisdiction.

As for the composition of the Administrative Court of Appeal, it consists of<sup>37</sup>:

- Judicial judges: a president with at least the rank of counselor in the Council of State; One or at least two vice-presidents, if necessary; heads of chambers; Department heads where appropriate; Consultants.
- Judges of the State Governorate: A state governor with at least the rank of advisor to the State Council; One or two assistant state governors when necessary.

It should be noted that the Administrative Court of Appeal's makeup is relatively similar to that of the Administrative Court<sup>38</sup>. However, the legislator preferred and required that the president and two assistants be advisors, which also applies to the governor of the state, who must have the rank of advisor in the State Council<sup>39</sup>. Unlike the Administrative Court, whose composition did not meet these conditions<sup>40</sup>.

It appears that the constitution of the Administrative Court of Appeal is guided by the principle of competency and requisite expertise, aligning with the unique nature of this judicial entity. This selection process considers the specialized jurisdiction conferred upon it as well as the significance of the rulings it renders in administrative affairs. The emphasis lies on appointing members based on their competence and substantial experience to adequately fulfill the responsibilities attributed to this judicial body.

##### ***2- Jurisdictions of the Administrative Court of Appeal***

The Administrative Court of Appeal holds significance as a secondary tier in administrative litigation, playing a pivotal role in rectifying deficiencies or errors made by judges at the initial level. Moreover, it functions to alleviate the workload on the Council of State, which is generally tasked with this responsibility. As outlined in Law 22-13, it is evident that the powers of the

Administrative Court of Appeal, akin to other judicial entities, are delineated based on specific jurisdiction (primary) and another regional jurisdiction (secondary).

**\* *qualitative specialization***

The designated jurisdiction allocated to the Administrative Court of Appeal, outlined in Article 900 bis of Law 22-13, is as follows:

- ***The Administrative Court of Appeal as an appellate body*** : This happens when considering appeals of judgments and orders issued by the Administrative Courts.

- ***The Administrative Court of Appeal as a first instance***: This role is assigned to the Administrative Court of Appeal for Algeria, as it decides as a first instance in cases of annulment, interpretation, and assessment of the legality of administrative decisions issued by the central administrative authorities, national public bodies, and national professional organizations.

Hence, the Administrative Court of Appeal generally functions as a secondary stage of legal proceedings, except for the Administrative Court of Appeal of Algiers. This particular entity not only serves as an appellate body but also adjudicates cases involving central administrative bodies as a primary instance, delivering rulings that can be appealed before the Council of State. This jurisdiction was previously held by the State Council, which originally and conclusively addressed such matters.

Thus, appealing judgments pronounced by administrative courts to the Administrative Court of Appeal establishes the two-tier litigation principle, alleviates the burden on the State Council, and facilitates its focus on its primary function as an appellate body aiming to standardize legal precedents. Moreover, assigning jurisdiction to the Algiers Administrative Court of Appeal for cases formerly overseen by the State Council would further ease the Council's workload. Appealing rulings from these cases to the State Council significantly reinforces the establishment of a two-tier litigation framework.

From our perspective, the State Council has yet to become a dedicated full-time judicial body for unifying legal precedents, especially while it continues to consider appeals. Additionally, we ponder why the legislator exclusively granted jurisdiction to the Administrative Court of Appeal in Algiers, and not to the other five courts, over cases involving central bodies. Could this be due to centralization?

It is possible that regional jurisdiction played a role, considering that most central administrative bodies are situated in Algiers. This trend, in our view, might escalate the workload for this particular court, potentially impeding the expeditious resolution of cases. Consequently, it might have been more prudent to extend this jurisdiction to all administrative courts of appeal, provided their rulings remain subject to appeal before the Council of State. This extension, while regulating regional jurisdiction, would afford representation and litigating rights to bodies at the local level.

**\* *Regional jurisdiction***

If the Algerian legislator had explicitly delineated the precise jurisdiction of the administrative courts of appeal, as outlined earlier, while establishing six such courts in Algiers, Oran, Constantine, Ouargla, Béchar, and Tamanrasset.

Accordingly, Executive Decree No. 22-435 <sup>41</sup> specified the circles of regional jurisdiction for the administrative courts of appeal and the courts, to establish for us the circles of regional jurisdiction for the administrative courts of appeal according to the following :

- ***Administrative Court of Appeal for Algeria***: The administrative courts within its jurisdiction are: Algiers - Blida - Bouira - Tizi Ouzou - Djelfa - Medea - M'Sila - Boumerdes - Tipaza - Ain Defla.

- ***Oran Administrative Court of Appeal***: The administrative courts within its jurisdiction are: Oran - Tlemcen - Tiaret - Saida - Sidi Bel Abbes - Mostaganem - Mascara - El Bayadh - Tissemsilt - Ain Temouchent - Relizane - Chlef .

- ***Constantine Administrative Court of Appeal*** : The administrative courts within its jurisdiction are: Constantine - Oum El Bouaghi - Batna - Bejaia - Jijel - Setif - Skikda - Annaba - Guelma - Bordj Bou Arreridj - El Tarf - Souk Ahras - Mila - Tebes - Khenchela .

- **The Ouargla Administrative Court of Appeal** : The administrative courts within its jurisdiction are: Ouargla - Ghardaia - Laghouat - El Oued - Biskra - Ouled Jalal - Illizi - Tougart - Djanet - El Mughair - Menia.

- **Administrative Court of Appeal in Tamanrasset**: The administrative courts within its jurisdiction are: Tamanghast - In Saleh - In Guezam .

- **Bashar Administrative Court of Appeal**: The administrative courts within its jurisdiction are: Bashar - Adrar - Tindouf - Naama - Timimoun - Bordj Badji Mokhtar - Beni Abbes .

It is noteworthy to consider the specific and territorial jurisdiction of public order <sup>42</sup>, and hence it can be raised at any stage of the case, whether by the opponents or the judge.

To elaborate, when a conflict of jurisdiction arises between two administrative courts under the same Administrative Court of Appeal, the President of that Administrative Court of Appeal resolves it. However, if such a conflict arises between two administrative courts under different Administrative Courts of Appeal, the decision falls under the authority of the President of the Council of State. When the conflict involves an administrative court or an Administrative Court of Appeal, it is decided by the President of the State Council. In cases of conflicts between two Administrative Courts of Appeal or between an Administrative Court of Appeal and the Council of State, resolution falls within the jurisdiction of the Council of State in all its collective chambers. <sup>43</sup> Hence, our legislator has given great importance to the conflict of jurisdiction between two administrative courts of appeal or between an administrative court of appeal and the State Council, as he assigned its consideration to the State Council with all its chambers combined, and this stems from the efficiency and experience of the composition contained in the Administrative Court of Appeal as well as the State Council.

#### **B) Procedures and conditions for filing a lawsuit before the Administrative Court of Appeal**

The procedures and requirements for initiating a lawsuit before the Administrative Court are outlined in Law 22-13, particularly in Article 900 bis 1. This article refers to other sections of the Civil and Administrative Procedures Code, specifically Articles 815 to 828. These references indicate that the procedures employed before the Administrative Court of Appeal generally mirror those used before the regular Administrative Court, with a few exceptions detailed in Law 22-13. These exceptions are aligned with the distinct status and characteristics of the Administrative Court of Appeal. Consequently, the procedures for initiating a lawsuit before the latter come into play during the appellate phase, including the appeals process for the judgments it issues.

##### **1- Procedures followed during the appeal stage**

The appeal serves as a practical application of the two-tier litigation principle, as it intends to reexamine the dispute before the secondary body, aiming to reassess the judgment, decision, or order made by the primary body. This reevaluation occurs from both factual and legal perspectives. <sup>44</sup> By extrapolating what was stated in the provisions of Law 22-13, we see that he prescribed these procedures according to the following form:

\* **Unifying the procedures and conditions for filing a lawsuit between the Administrative Court and the Administrative Court of Appeal as a general principle** <sup>45</sup>: Law 22-13 followed the same procedures adopted, both in terms of the data contained in the case presentation <sup>46</sup> and the rules for filing it, or what is related to the condition of the prior administrative decision, in addition to the deadlines for appeal.

Our legislator has restricted the deadlines for appeals in this respect <sup>47</sup> an approach that we see as referring to the lawsuit filed before the Administrative Court of Appeal of Algeria when it considered the cases of the central bodies as a first instance subject to appeal, since appealing the rulings of the Administrative Court before the Administrative Court of Appeal has its own deadlines.

In continuation with the effort to streamline procedures and criteria, Article 900 bis 3 directs us to adhere to the regulations articulated in Articles 838 to 873 of the same law, particularly concerning investigation procedures and case conduct. Additionally, Law 22-13, in Article 900 bis

6, advises the utilization and application of general regulations specified in Articles 539 to 542, particularly regarding the processes of submitting and recording an appeal.

\* ***The appeal petition has to be signed by a lawyer:*** Pursuant to Article 900 bis 1,<sup>48</sup> the requirement for a lawyer to sign the appeal petition before the Administrative Court of Appeal by a lawyer has become a mandatory condition, while maintaining the exemption in place for the public administration represented by the administrative bodies mentioned in Article 827 of the Civil and Administrative Procedures Law, which stipulates that: “The state and the legal persons mentioned in Article 800 above requires mandatory representation by a lawyer in prosecution, defense or intervention. Petitions and intervention memorandums submitted in the name of the state or in the name of the persons referred to above must be signed by the legal representative. The same procedure applies before the Council of State.”<sup>49</sup>

Mandating the mandatory representation of individuals by a lawyer, in our perspective, is intended to enhance the efficiency of the administrative judiciary and facilitate expeditious proceedings. When a petition is crafted by a specialized individual, such as a lawyer, it allows for clear and legally coherent requests and defenses that the court can readily comprehend. Consequently, this can expedite the resolution of disputes, particularly since the legislator has waived this requirement before the Administrative Court.

\* ***One significant development lies in Article 900 bis 2:*** where the appeal before the court is considered as a transfer of the dispute to the Administrative Court of Appeal for reconsideration. Simultaneously, the execution of the ruling is put on hold pending the appeal process.<sup>50</sup> This is the opposite of what was previously practiced, where the appeal was before the Council of State, and even if the dispute was transferred, it does not stop the implementation.

The introduction of the procedure to suspend the ruling subject to appeal, as stipulated in Law 22-13, is commendable and deserves appreciation. This provision addresses significant issues that arose in practical scenarios due to the absence of suspension for rulings undergoing appeal. This absence often led to complications, especially concerning parallel procedures such as suspension of implementation in annulment or compensation cases. Regarding compensation, a scenario may occur where an individual, after receiving compensation awarded by the administrative court, withdraws the compensation from the public treasury. Subsequently, if a decision is issued by the appellate body (such as the State Council) that is not in their favor, a complex situation arises. How can the individual be compelled to return the withdrawn amount after initially being granted an executive order to receive it?<sup>51</sup> Therefore, the legislator did well to intend to stop the implementation of the ruling under appeal.

\* ***Deadline for appeal:*** Orders issued by the Administrative Court in urgent matters are open to appeal before the Administrative Appeal Court within a 15-day timeframe starting from the official notification or notice. Similarly, the same deadlines are applicable for appealing orders issued by the Administrative Court of Appeal for Algeria in cases related to urgency.<sup>52</sup> While the deadlines for appealing ordinary rulings issued by the Administrative Court were set at one month<sup>53</sup>. Hence, the deadlines were shortened, as they were previously estimated at two months, a measure that would speed up the final settlement of the administrative dispute.

## ***2 - Methods of appealing judgments issued by the Administrative Court of Appeal***

Appealing judicial rulings serves as a mechanism through which litigants seek a verdict aligned with the factual truth. The act of appealing a ruling permits the reviewing judge to scrutinize the contents of the ruling under question, identifying both its strengths and weaknesses through a meticulous legal assessment. The established types of appeals are ordinary and extraordinary, classifications that the legislator adhered to in the provisions outlined in Law 22-13.

\* ***Regular methods of appeal :***

- ***Appeal:*** As per Article 949, any party legally present or summoned, regardless of whether a defense was presented, retains the right to appeal against the ruling or order issued by the Administrative Court. Additionally, the decision issued as a first instance by the Administrative

Court of Appeal of Algiers can be appealed. Furthermore, in line with the stipulations of Article 951, the respondent has the privilege to submit a subsidiary appeal even if their right to file the primary appeal has been waived. It's essential to note that the subsidiary appeal will not be entertained if the original appeal is inadmissible. Moreover, if the waiver of the primary appeal occurs subsequently, the subsidiary appeal will not be accepted.

It is important to highlight that the time limit for appealing decisions made by the administrative court to the State Council is set at two months.<sup>54</sup> It is noted here that the legislator used the term "decisions". The question arises: Does the Administrative Court of Appeal issue rulings or decisions? From our point of view, we see that it issues decisions in the event that it decides the dispute as a second instance, but in the event that it decides the dispute in the first instance, which is of course guaranteed by the Administrative Court of Appeal of Algeria, here it is considered a ruling subject to appeal before the Council of State.

- **Opposition:** Orders, rulings, and decisions pronounced in absentia by the administrative courts, administrative courts of appeal, and the State Council functioning as an appellate body can be contested through an opposition procedure. The opposition must be submitted within one month following the official notification of the absentee judgment or decision. However, for orders, this duration is shortened to fifteen days.<sup>55</sup>

\* **Uncommon methods of appeal:**

Besides the cassation appeal, the legislator did not introduce any new elements in this domain, merely directing us to existing articles established previously<sup>56</sup>, the rest of the methods are basically the following:

- **Objection by a third party outside the dispute:** Article 960 specifies that the intervention of a third party external to the dispute is aimed at reviewing or annulling the ruling, decision, or order that concluded the subject of the dispute. The case is re-evaluated concerning both the facts and the law. It is observed that the amendment in this article merely included the term "order," previously not mentioned. This was a recognized gap addressed by the Algerian legislator, as the objection encompasses rulings, decisions, and orders, as stipulated in Article 385.

- **Claim to correct a material error:** As per Article 963 of Law 22-13, notable amendments have been introduced by our legislator regarding this appeal. It's now allowed for the judicial body that issued the ruling, even after it has become final, to rectify a substantive error or omission. This process wasn't previously in effect. Once the corrected ruling becomes final, there's no appeal against the correction ruling except through a cassation appeal.<sup>57</sup>

Furthermore, if the State Council renders a decision in a case that contains a substantial error impacting the decision itself, the affected party has the right to appeal to rectify this mistake. In cases where this error significantly influences the rights and obligations of the involved parties and is ascribed to the judicial authority, the State Council reserves the authority to make corrections. This represents a shift from the previous legal practice where rectification of a substantial error or omission didn't typically result in an amendment.<sup>58</sup> The rights and obligations of the parties stipulated in the ruling. Accordingly, we believe that the new vision advanced by the legislator regarding this appeal is a sound vision that will protect the rights of the litigant and establish the principles of justice.

- **Suit seeking reconsideration:** To elaborate on Article 966 of Law 22-13, it is important to note that seeking reconsideration is only admissible for final rulings issued by administrative courts and conclusive decisions issued by administrative courts of appeal or the State Council as an appellate body. This marks a departure from the previous legal framework where this procedure was limited to decisions rendered by the Council of State. The amendment signifies a positive development by extending the right to seek reconsideration to all instances of administrative litigation that produce final judgments or decisions, enhancing the legal options available to litigants.

A petition for reconsideration can be filed under two specific circumstances: firstly, when it is found that the decision was made relying on falsified documents presented for the first time before the administrative judicial authority. Secondly, if a judgment was made against a party due to their

failure to present a decisive document that was intentionally withheld by the opposing party.<sup>59</sup> Here, our legislator included the administrative judicial authority in place of the State Council, which was stipulated before the amendment. This is self-evident since the request for reconsideration is no longer limited to it.

### **Conclusion:**

Upon concluding our study, we determined that the Algerian administrative judiciary has undergone significant changes due to the new legal framework introduced by Law 22-13, which amended the Code of Civil and Administrative Procedures. These modifications and fresh arrangements have notably impacted the administrative litigation processes, leading us to the following conclusions:

- The legislator has the right to consider disputes from national public bodies and national professional organizations within the jurisdiction of administrative courts.
- Law 22-13 followed the approach of procedural systems introduced in the activity of the judicial system. According to him, it became possible to file a lawsuit electronically.
- Consideration of the matter of urgency at the Administrative Court level was assigned to the individual judge instead of the collective formation. Also, orders issued under the urgency clause are subject to appeal.
- Abolishing Law 91-02, which regulated the rules for implementing judicial rulings containing a financial conviction against the administration, and including those rules within the provisions of Article 986 of Law 22-13, where was its new vision in the judicial report before the Treasurer's efforts to collect financial amounts.
- The principle of two-level litigation was established in the administrative matter by establishing the Administrative Court of Appeal, which is considered, as a general rule, a second level of litigation, with the exception of the Administrative Court of Appeal of Algiers, which, in addition to being an appellate body, also decides on some cases of central administrative bodies as a first instance with a ruling subject to appeal. Before the State Council.
- The appeal is a position to implement the ruling that is being appealed. This is a measure that would reduce the major problems that were arising in practice due to the failure to suspend the ruling.
- Signing the appeal petition before the Administrative Court of Appeal by a lawyer is a mandatory condition, while keeping the exemption in place for the public administration.
- Law 22-13 brings new arrangements regarding some methods of appeal, perhaps the most important of which is the permissibility of correcting a material error or omission that taints it by the judicial authority that issued the ruling, even after this ruling has acquired the force of *res judicata*, and appeal by seeking reconsideration is no longer limited to Decisions of the State Council.

In summary, considering the pivotal role of the administrative judiciary in safeguarding rights and public interest, we recommend the following:

- Specialized Judge Training: Given the unique nature of administrative disputes and the evolving administrative judiciary structures, specialized training for judges in this field is crucial.
- Resolving Conflicts in Jurisdiction: Addressing the discrepancy between Articles 800 and 900 bis concerning disputes involving national public bodies and professional organizations is necessary for proper case management.
- Empowering Administrative Judges: Activation of the administrative judge's role in implementing judicial rulings involving financial convictions against public administrations is essential.
- Extension of Adjudication Authority: Expanding the jurisdiction of cases by central administrative bodies to all administrative courts of appeal, while overseeing regional jurisdiction rules, could alleviate pressure on the Administrative Court of Appeal in Algeria.

– Publication of Judgments and Decisions: To provide transparency and aid researchers in understanding judicial jurisprudence in administrative matters, making judgments and decisions issued by administrative judiciary bodies publicly available is recommended.

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<sup>1</sup> - See, Ammar Boudiaf, *The Administrative Judiciary in Algeria between the System of Unity and Duality 1962-2000*, 01st Edition, Dar Rayhana, Algeria, 2000, pp. 23-24; Abdel Aziz Nouri, "Administrative dispute in Algeria, its development and specializations, a comparative study," *Journal of the State Council*, No. 08, 2006, pp. 20 et seq.

<sup>2</sup> - Law No. 62-157, dated 12/31/1962, extending the application of French legislation, *Official Gazette of the Algerian Republic*, No. 02, dated 01/11/1963.

<sup>3</sup> - Law No. 63-218, dated 06/18/1963, establishing the Supreme Judicial Council, *Official Gazette of the Algerian Republic*, No. 43, dated 1963.

<sup>4</sup> - Order No. 65-278, dated 11/16/1965, containing judicial organization, *Official Gazette of the Algerian Republic*, No. 96, dated 11/23/1965.

<sup>5</sup> As a result, 15 judicial councils were established, which replaced the courts of appeal, the courts replaced the major courts of first instance, and the courts of first instance inherited from the colonial period.

<sup>6</sup> - Order No. 66-154, containing the Civil Procedure Code, *Official Gazette of the Republic of Algeria*, No. 47, dated 06/09/1966.

<sup>7</sup> - Jazia Sash, *The System of the State Council in the Algerian Judiciary*, PhD thesis, Faculty of Law, University of Algiers 01, 2007/2008, p. 99.

<sup>8</sup> - The Algerian Constitution, issued on 11/28/1996, *Official Gazette of the Algerian Republic*, No. 76, dated 12/28/1996, amended and supplemented.

<sup>9</sup> -Law 08-09, Dated 02/25/2008, including the Civil and Administrative Procedures Code, *Official Gazette of the Algerian Republic*, No. 21, dated 04/23/2008.

<sup>10</sup> -Law 22-13, dated 07/12/2022, amending and supplementing the Code of Civil and Administrative Procedure, *Official Gazette of the Republic of Algeria* No. 48, dated 07/17/2022.

<sup>11</sup> Regarding the judiciary that decides administrative disputes, some Arab legal systems have adopted a dual judicial system, such as Egypt - see Egyptian State Council Law No. 47 of 1972, and some systems, such as the Qatari legal system, have adopted a judicial system that decides administrative disputes within the ordinary judiciary - see Qatari Law No. (7) of 2007 regarding the settlement of administrative disputes.

<sup>12</sup> - Article 1 of Law No. 98-02 F1 relating to administrative courts states: "Administrative courts shall be established as judicial bodies of public law." Our legislator has used the phrase "as judicial bodies of public law," which is an ambiguous phrase that may be understood other than what is intended, that administrative courts are It has general jurisdiction in administrative matters. It is noted that this expression is inherited from the Civil Procedure Code, and what is certain is that what is meant by public law is not the traditional division of the law into general and private, but rather what is meant by it is that it has general jurisdiction in the eyes of all administrative disputes, which is clear from the wording of Article 800. From the Code of Civil and Administrative Procedures - quoted from Abdel Halim Ben Mishri, "The development of the judicial jurisdiction of administrative courts in Algerian law," *Al-Mufakir Magazine*, No. 04, 2009, p. 160.

<sup>13</sup> - Law No. 98-02, dated 05/30/1998, relating to administrative courts, *Official Gazette of the Republic of Algeria*, No. 37, dated 06/01/1998.

<sup>14</sup> - Executive Decree No. 11-195, dated 05/22/2011, amending Executive Decree No. 98/356, dated 11/14/1998, specifying the modalities for implementing the provisions of Law No. 98-02, relating to administrative courts, *Official Gazette of the Republic of Algeria*, No. 29, dated 05/22/2011.

<sup>15</sup> - See, Article 802 of the Code of Civil and Administrative Procedure; Adel Boudiaf, *Al-Wajeez fi Sharh Law of Civil and Administrative Procedures*, Part 02, Click Publishing, Algeria, Edition 01, 2012, p. 231.

<sup>16</sup> - Among these disputes, we mention: customs disputes, especially those related to the payment or recovery of rights and duties...; Nationality disputes that Its subject matter is whether or not the person enjoys Algerian nationality; Compensation for unjustified temporary detention... - For more details about this, see Abdelkader Adou, *Administrative Disputes*, 02nd edition, Dar Houma, Algeria, 2014, pp . 79-81.

<sup>17</sup> - Article 09 of Organic Law No. 98-01, dated 05/30/1998, relating to the powers, work and organization of the State Council, Official Gazette of the Algerian Republic, No. 37, dated 06/01/1998, amended and supplemented.

<sup>18</sup> - Article 10 of Law 22-11 stipulates the following: “The State Council is competent to adjudicate on appeals of decisions issued by the Administrative Court of Appeal of the City of Algiers in cases of annulment, interpretation and assessment of the legality of decisions issued by the central administrative authorities and National public bodies and national professional organizations” - Law No. 22-11, dated 06/09/2022, amending and supplementing Organic Law No. 98-01 relating to the organization, functioning and powers of the Council of State, Official Gazette of the Republic of Algeria, No. 41, dated 06/16 /2022.

<sup>19</sup> - Articles 815 and 931 of the Civil and Administrative Procedures Code.

<sup>20</sup> - Law 15-03, dated 02/01/2015, relating to the modernization of justice, Official Gazette of the Republic of Algeria No. 06, dated 12/10/2015

<sup>21</sup> This definition of to Muhammad Mahmoud Ibrahim - quoted from Saeed Bouali, *Administrative Disputes under Algerian Law*, Dar Belqis, Algeria, 2014, p. 212 .

<sup>22</sup> Article 917 of the Civil and Administrative Procedures Law stipulates the following: “The matter of urgency shall be decided by the collective formation entrusted with deciding the merits of the case.”

<sup>23</sup> - Abdul Qadir Adou , previous reference, p. 258.

<sup>24</sup> -See Article 937 of Law 22-13.

<sup>25</sup> Al-Hassan Kafif, *The Legal System for Administrative Liability Based on Error*, Dar Houma, Algeria, 2014, p . 305.

<sup>26</sup> - Article 178 of the Algerian Constitution stipulates the following : “All competent state agencies are required at all times, in every place, and in all circumstances to ensure the implementation of judicial rulings...” -

<sup>27</sup> - Law No. 91-02, dated 01/08/1991, specifying the special rules applied to some judicial rulings, Official Gazette of the Algerian Republic, No. 02, dated 01/09/1991.

<sup>28</sup> - The judicial order means the request issued by the administrative judge directed to one of the parties to the dispute, which is the party that abstains from implementing judicial rulings, which in most cases is the administrative authority “the defendant.” The judicial order is for the administration to take a certain behavior, which is to carry out an action or refrain from an action. - Quoted from Alaa Mahmoud Hussein Al-Sahout, *Guarantees for the Implementation of Judicial Rulings Issued by Administrative Courts - A Comparative Study* , Doctoral Dissertation, Faculty of Law, Middle East University, Amman, 2022, p. 96.

<sup>29</sup> - The threatening fine is defined as: “ a financial amount of a specified amount, whether for each day or month of delay against the debtor public person, who acts or refrains from implementing a decision from any judicial authority. It therefore comes as a penalty for the administration ’s violation of the operative part of the ruling.” Quoted by Ahmed Abbas Mushal, *Implementing Administrative Rulings*, New University House, Alexandria, p. 156.

<sup>30</sup> This was stated by Amour Salami, quoted by Sidra Wasila, “The judicial authority competent to impose a threatening fine to ensure the implementation of the cancellation provisions in light of the provisions of the Civil and Administrative Procedures Law,” *Journal of Law, Society and Authority*, Volume 07, Issue 02, 2018, p. 189.

<sup>31</sup> -Decision of the Council of State, 05/27/2010, File No. 052240, cited in the same reference, p. 191; In another decision of the State Council, it was decided Regarding his jurisdiction to impose a threatening fine in order to implement the rulings issued by him, whether preliminary or final, he

ruled in it: “obliging the Ministry of Mujahideen to implement State Council Resolution No. 786772 issued on 12/27/2012 under penalty of a threatening fine of 3,000 DZD for each day of delay, effective after 03 months.” From the date of notification of this decision” - this decision was referred to by Mohamed Zadun, New Means in Algerian Law for Implementing Judicial Rulings Against the Administration, PhD thesis, Abu Bakr Belkaid University, Tlemcen , Algeria, 2021/2022, p. 208.

<sup>32</sup> - Presidential Decree No. 20-442, regarding the promulgation of the Algerian Constitution, Official Gazette of the Republic of Algeria , No. 82, dated 12/30/2020 .

<sup>33</sup> - Organic Law 22-10, dated 06/09/2022, relating to judicial organization, Official Gazette of the Republic of Algeria , No. 41, dated 06/16/2022.

<sup>34</sup> -Article 29 of Organic Law 22-10.

<sup>35</sup> -Law 22-07, dated 05/05/2022 , including the judicial division, Official Gazette of the Republic of Algeria , No. 32, dated 05/14/2022.

<sup>36</sup> - Pursuant to Law 90-23, a judicial body was created, represented by the regional chambers that were installed at the level of the Judicial Council of Algiers, Oran, Constantine, Basharr, and Ouargla, which is responsible for adjudicating appeals of invalidation or interpreting the legality of administrative decisions - Law No. 90-23, dated August 18, 1990, amending and supplementing the Civil Procedure Code, Official Gazette of the Algerian Republic , No. 36, dated 08/22/1990.

<sup>37</sup> -Article 30 of Organic Law 22-10.

<sup>38</sup> However, the adjudicating judges in the Administrative Court, in addition to what constitutes the Administrative Court, include : heads of branches when necessary; judges; Judges In charge of petitions; Judges who report judgments (Article 32 of Organic Law 22-10).

<sup>39</sup> See, Article 30 of Organic Law 22-10; Article 905 bis 5 of Law 22-13.

<sup>40</sup> See, Article 32 of Organic Law 22-10; Article 814 bis of Law 22-13

<sup>41</sup> -Executive Decree 22-435, dated 12/11/2022, specifying the territorial jurisdiction of the administrative courts of appeal and the courts. Administrative, Official Gazette of the Algerian Republic, No. 84, dated 12/14/2022 .

<sup>42</sup> Article 900 bis 4 of Law 22-13.

<sup>43</sup> -Article 808 of Law 22-13.

<sup>44</sup> -Ammar Boudiaf, Reference on Administrative Disputes - Part One-, 01st Edition, Dar Jusoor for Publishing and Distribution, Algeria, 2013, p. 356.

<sup>45</sup> - Whereas Article 900 bis 1 referred us to applying Articles 815 to 228 of the Civil and Administrative Procedures Code during the appeal.  
By appeal before the Administrative Court of Appeal.

<sup>46</sup> Article 15 of the Civil and Administrative Procedures Law stipulates that: “The petition to open the case must, under penalty of inadmissibility in form, include the following data:

-The judicial authority before which it is filed. -The name, surname and address of the defendant.

- The name, surname, and address of the defendant. If s/he does not have a known address , then his/her last address .

- Reference to the name and nature of the legal person , their social headquarters, and the capacity of their legal or contractual representative.

- A brief presentation of the facts and claims on which the case is based. - Reference, when necessary, to Documents and documentation supporting the lawsuit.

<sup>47</sup> The period for filing a lawsuit directly before the Administrative Court is four months.

<sup>48</sup> Article 900 bis 1 stipulates the following : ...It is mandatory for the opponents to be represented by a lawyer before the Administrative Court of Appeal, under penalty of not accepting the petition.” Although our legislator in this article intended to adversary the administration, the way of wording is unsuccessful because the word adversaries refers to the plaintiff and the defendant, one of whom is a public legal entity, even though the latter is exempt from the requirement of obligatory representation by a lawyer.

<sup>49</sup> See, Article 905 of the Civil and Administrative Procedures Law.

<sup>50</sup> - The same order is now applied before the Council of State, as the appeal of the Administrative Court's rulings for appeal before it suspends their implementation (Article 908).

<sup>51</sup> -For more details about this, see Garnash Jamal, What is the benefit of an appeal if the execution is not stayed in the administrative compensation case - the case of a state governor. Chlef v . K.S. as an example - Journal of Law and Human Sciences, Volume 11, Issue 02, 2018.

<sup>52</sup> -Article 937 of Law 22-13.

<sup>53</sup> -Article 950 of Law 22-13.

<sup>54</sup> -Article 950 of Law 22-13.

<sup>55</sup> -See Articles 953-954 of Law 22-13.

<sup>56</sup> -See Article 959 of Law 22-13.

<sup>57</sup> --See Article 286 of Law 08-09.

<sup>58</sup> --See Article 287 of Law 08-09.

<sup>59</sup> Article 967 of Law 22-13.

## Bibliography

### A-Books:

Mecheghal Ahmed Abbas , 2012 , *implementation of administrative provisions* , not printed , New University publishing House , Alexandria, Egypt .

- Boudiaf Adel, 2012, *The brief explanation of the Civil and Administrative Procedures Law*, Edition 01, Part 02, Click Publishing, Algeria.

- Boudiaf Ammar, 2013, *Reference in Administrative Disputes - Part One* - 01st Edition, Dar Jusoor for Publishing and Distribution, Algeria.

- Boudiaf Ammar, 2000, *The Administrative Judiciary in Algeria between the System of Unity and Duality 1962* - 01st Edition , Dar Rayhana, Algeria .

- Bouali Saeed 2014, *Administrative Disputes Under Algerian Law* , Dar Belqis, Algeria.

- Addou Abdelkader, *Administrative Disputes* , 02nd edition, Dar Houma, Algeria, 2014.

- Kifif Al-Hassan, 2014, *The Legal System of Administrative Liability on the Basis of Error* , Dar Homa, Algeria.

### B -Theses and dissertations:

- Zeddoun Muhammad, 2022, *New means in Algerian law to implement judicial rulings against the administration*, Ph.D thesis , Faculty of Law and Political Science , Abi Bakr University in Belgabdtlemcen, Algeria .

- Sash Jazia, 2008, *The system of the Council of State in the Algerian judiciary*, PhD thesis, Faculty of Law, University Algeria 01.

- Alaa Mahmoud Hussein Al-Sahtoot, 2002, *Guarantees for the implementation of judicial rulings issued by administrative courts* - a comparative study - Magister's dissertation, Faculty of Law, university the East middle, Oman .

### C -Articles:

- Ben Mishri Abdel Halim, 2009, "The development of the judicial jurisdiction of administrative courts in Algerian law," Al-Mufikr Magazine, Volume 04, Issue 01, pp. 153-168.

- Sidra Wasila, "The judicial authority competent to impose a threatening fine to ensure the implementation of cancellation provisions in light of the provisions of the Civil and Administrative Procedures Law," Journal of Law, Society and Authority, Volume 07, Issue 02, 2018, pp. 183-205.

- Garnash Jamal, "What is the benefit of an appeal if the implementation is not stayed in the administrative compensation case - the case of the Governor of Chlef State against K.S. as an example" - Journal of Law and Human Sciences, Volume 11, Issue 02, 2018, pp. 619-629.

- Nouiri Abdel Aziz, "Administrative dispute in Algeria, its development and specializations, a comparative study," Journal of the State Council, No. 08, 2006, pp. 09-114

**D -Legal texts:**

**\*Algerian legal texts :**

- the Constitution The Algerian, issued on 11/28/1996 , Newspaper Official For the Republic The algerian, number 76 , issued on 12/28/1996 , the average And the completion By decree Presidential No. 20-442 , Related By issuing the Constitution The Algerian, Newspaper Official For the Republic The algerian, number 82 , issued on 12/30/2020.
- the law No. 62-157 , issued on 12/31/1962 , Included extension the job By legislation French, Newspaper Official For the Republic The algerian, Number 02 , issued on January 11, 1963 .
- the law No. 63-218 , issued on 06/18/1963 , Included events the Council the above to eliminate, Newspaper Official For the Republic The algerian, number 43 , Dated In 1963.
- the law No. 90-23 , issued on 08/18/1990 , the average And the completion To the law procedures Civilian , Newspaper Official For the Republic The algerian, number 36 , issued on 08/22/1990.
- the law No. 91-02 , issued on 01/08/1991 , Specified For the rules Private applied on some Provisions judiciary, Newspaper Official For the Republic The algerian, Number 02 , issued on 01/09/1991.
- the law No. 98 – 01 ,issued on 05/30/1998 , Related With specialties council Country And his work and organize it, Newspaper Official For the Republic The algerian, number 37 , issued on 01/06/1998 , the average And the completion .
- the law No. 98-02 , issued on 05/30/1998 , Related In the courts Administrative, Newspaper Official For the Republic The algerian, number 37 , issued on 01/06/1998.
- Law 08-09 , issued on 02/25/2008 , Included Law procedures Civilian and administrative, Newspaper Official For the Republic The algerian, number 21 , issued on 04/23/2008 , the average And the completion .
- Law 15-03 , issued on 01/02/2015 , Related With modernity Justice, Newspaper Official To curb Huriya The algerian, Number 06 , issued on 12/10/2015.
- Law 22-07 , issued on 05/05/2022 , Included Partition judicial, Newspaper Official For the Republic The algerian, number 32 , issued on 05/14/2022.
- the law Organic 22-10 , issued on 09/06/2022 , Related By organization judicial, Newspaper Official For the Republic The algerian, number 41 , issued on 06/16/2022.
- the law No. 22-11 , issued on 09/06/2022 , the average And the completion For the law Organic No. 98-01 related Organized council Country And his walk And his specializations, Newspaper Official For the Republic The algerian, number 41 ,issued on 06/16/2022.
- Law 22-13 , issued on 07/12/2022 , the average And the completion To the law procedures Civilian and administrative, Newspaper Official For the Republic The algerian, number 48 , issued on 07/17/2022.
- The command No. 65 – 278 , issued on 11/16/1965 , Included Organization judicial, Newspaper Official For the Republic The algerian, number 96 , Dated On 11/23/1965.
- The command No. 66-154 , Included Law procedures Civilian , Newspaper Official For the Republic The algerian, number 47 , issued on 06/09/1966.
- Decree Executive No. 11-195 , issued on 05/22/2011 , the average For the decree Executive No. 98/356 , issued on 11/14/1998 , Specified How to application Provisions Law 98-02 , Related In the courts Administrative, Newspaper Official For the Republic The algerian, number 29 , issued on 05/22/2011.
- Decree Executive 22-435 ,issued on 12/11/2022 , Specified For circles Jurisdiction Regional For the courts Administrative To appeal And the courts Administrative, Newspaper Official For the Republic The algerian, number 84 , issued on 12/14/2022.

**\*Foreign legal texts :**

- Law council Country Egyptian No. 47 of 1972.
- the law Qatari No. (7) of 2007 regarding the chapter in Disputes Administrative .