

The jurisdiction of the Council of State under Law 22-13 amending and complementing Law 08-09

الاختصاص القضائي لمجلس الدولة في ظل القانون 22-13 المعدل والمتمم للقانون 08-09

Juridiction du Conseil d'Etat en vertu de la loi 22-13 modifiant et Complétant la Loi 08-09

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ملخص:

يمثل مجلس الدولة الهيئة القضائية العليا للقضاء ويحتل مكانة خاصة في النظام القضائي الجزائري منذ إنشائه بموجب المادة 152 من دستور 1996 حيث أوكلت له عدة مهام أهمها ذات الطابع القضائي، وما لبث هذا الدور أن تعزز مع التعديلات الدستورية المتعاقبة أهمها التعديل الدستوري الأخير 2020 الذي أعاد توزيع الاختصاص القضائي خاصة بعد إنشاء المحاكم الإدارية للاستئناف، هذا التطور الدستوري لم يكن مع معزولا عن تحولات تشريعية لاحقة كان أهمها إصدار القانون 13/22 المعدل لقانون الإجراءات المدنية والإدارية 09/08 وكذلك تعديل القانون العضوي المتعلق به.

وقد مثل القانون 22/13 قفزة نوعية بالنسبة لاختصاصات مجلس الدولة وذلك بتكريسه لمبدأ التقاضي على درجتين في صورته السليمة وكذلك أقرّ تنظيمًا جديدًا للطعن بالنقض والطعن بالاستئناف.

الكلمات المفتاحية: مجلس الدولة؛ القانون 13/22؛ الطعن بالنقض؛ الطعن بالاستئناف؛ النصوص القانونية الخاصة

Abstract :

Since its establishment under Article 152 of the 1996 Constitution, the Council of State has held a special position in the Algerian judiciary as the highest judicial authority for administrative justice. It has been assigned several important judicial tasks. This role has been reinforced through successive constitutional amendments, particularly the 2020 amendment, which redistributed judicial competencies, especially after the creation of administrative courts of appeal. This constitutional evolution was not isolated from subsequent legislative changes, the most significant of which was the passing of Law 13/22, which amended Civil and Administrative Procedure Law 09/08, alongside modifications to the relevant organic law.

Law 13/22 represented a significant development in the Council of State's competencies by formalising the principle of two-tier litigation and introducing a new organisation for cassation and appeal procedures

Keywords : Council of State, Law 13/22, cassation, appeal, specific legal texts

Résumé:

Le Conseil d'État représente l'organe judiciaire suprême et occupe une place particulière dans le système judiciaire algérien depuis sa création conformément à l'article 152 de la Constitution de 1996, qui lui a confié plusieurs missions, les plus importantes ayant un caractère judiciaire. Ce rôle a

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été renforcé avec les révisions constitutionnelles successives, la plus importante étant la dernière révision constitutionnelle de 2020 qui a redéfini la répartition des compétences judiciaires, surtout après la création des cours administratives d'appel. Cette évolution constitutionnelle n'a pas été isolée des transformations législatives ultérieures, parmi lesquelles l'adoption de la loi 22/13 modifiant la loi sur la procédure civile et administrative 08/09, ainsi que la révision de la loi organique y relative.

La loi 13/22 a constitué un saut qualitatif pour les compétences du Conseil d'État en consacrant le principe du jugement en deux instances dans sa forme correcte et en établissant également une nouvelle organisation pour les pourvois en cassation et les appels.

Mots clés : Conseil d'État , loi 22/13 , recours en cassation , appel , textes juridiques spécifiques

Introduction :

The Council of State is a cornerstone of Algeria's judicial system, playing a crucial role in establishing the rule of law. It ensures compliance with the law and unifies administrative judicial interpretations. Established under Article 152 of the 1996 Constitution, the Council's establishment marked a significant step in the judicial landscape by entrusting it with various judicial and constitutional functions. These include unifying administrative judicial interpretations, monitoring the legality of administrative decisions, and assessing the work of administrative judicial bodies. This has granted the Council of State a strategic position within the Algerian judicial system, especially following the enactment of Law 08-09 on civil and administrative procedures.

The ongoing evolution of the legal framework has seen Law No. 22-13 bring a qualitative shift in the definition and clarification of the Council of State's jurisdiction. Not only does this law enhance procedural guarantees for litigants, it also reorganises the roles and jurisdictions among the various levels of administrative litigation, thus further consolidating the Council of State's status as the supreme body for judicial oversight. How, then, has Law 22-13 influenced the definition and expansion of the Council of State's judicial powers?

This research will employ an analytical approach to examine the recent developments concerning the judicial jurisdiction of the Council of State compared to the previous framework under Law 08-09. We will follow this division:

Chapter One: The Jurisdiction of the Council of State in Appeals and Cassation

Chapter Two: Other Judicial Jurisdictions of the Council of State.

1. The Jurisdiction of the Council of State in Appeals and Cassation

The Council of State is the highest judicial authority within Algeria's administrative judicial system, serving as the primary guarantor of the proper application of administrative law. Its dual judicial function is reflected in its authority to consider two main types of appeal: cassation and ordinary appeal.

This chapter will address the cassation and appeal areas assigned to the Council of State through Law 08-09, as amended by Law 22-13 (Law No 22-13 dated July 12, 2022, amending and supplementing Law No. 08-09 dated February 25, 2008, concerning the Code of Civil and Administrative Procedure)

1-1. The Jurisdiction of the Council of State in Cassation Appeals.

The Council of State is responsible for hearing cassation appeals against final rulings and decisions issued by other administrative judicial bodies (Article 901 of Law 22-13 amending and supplementing the Code of Civil and Administrative Procedures 08-09), as well as those authorised by specific legal texts.

1.1.1. Concept of Cassation Appeal :

A cassation appeal is a fundamental means of correcting errors affecting judicial rulings and decisions concerning the understanding or application of legal texts. It also addresses jurisdictional overreach, deficiencies or contradictions in reasoning. Cassation appeals address specific cases because judicial rulings are made by humans who are susceptible to errors and lapses in concentration. Therefore, cassation appeals are the best way to ensure that judgments are fair and to correct any legal defects (Boudeyf, 2013, p. 369) .

Cassation does not extend the initial dispute or constitute an additional level of litigation. This means that parties do not have the same rights as in the lower courts to present new requests or defenses that were not previously submitted in earlier stages of litigation (Barabara, 2022, p. 304).

Cassation remains an extraordinary remedy used to ensure the integrity of judicial rulings and correct their legal flaws.

1.1.2. Types of Rulings and Decisions Subject to Cassation Appeals:

According to Article 901 of Law 22-13, which amends and supplements Law 08-09 on civil and administrative procedures, cassation appeals can be made against two types of final rulings and decisions: those issued by administrative judicial bodies, and those specifically authorised by legal texts.

First: Adjudicating Cassation Appeals Against Final Rulings and Decisions:

In order to accept a cassation appeal before the Council of State, it is necessary that:

1. Jurisdictionally:

Cassation appeals can only be accepted in relation to judicial decisions. This excludes administrative acts issued by certain administrative judicial bodies while exercising their management and administrative functions (Baali, 2004, p. 140).

2. Finally:

As cassation appeals are the final opportunity for parties to defend their rights, all other avenues of appeal must be exhausted and the contested decision must be final (Same reference, p. 164).

3. Issued by administrative judicial bodies:

These bodies include the Council of State, appellate administrative courts and administrative courts. The Council of State issues final judicial decisions when acting as an appellate judge in its capacity as a second instance, in accordance with Article 902 of the same law. Final decisions issued by the Council of State cannot be subject to cassation as cassation appeals must be made to a higher judicial authority than that which issued the contested decision (Bounaas, 2023, p. 42).

Therefore, 'final decisions' refer to those issued by appellate administrative courts, while 'final judgments' refer to judicial rulings issued by administrative courts.

Second: final judicial rulings issued by administrative courts

While the Council of State's jurisdiction to hear cassation appeals against appellate administrative court decisions is clear, questions arise regarding administrative courts' final rulings. This raises the question: do administrative courts issue final judgments (Boudaia, 2023, p. 1904).

Article 800 of the Civil and Administrative Procedures Law establishes the general rule that administrative courts issue judgments that are subject to appeal before appellate administrative courts. What does the legislator mean by 'final judgments' in Article 901 of Law 22-13?

A judgment or order issued by an administrative court becomes final and may be appealed directly in cassation before the Council of State without first being appealed before the competent appellate administrative court in two cases:

1. **Expiry of the appeal period:** The losing party is granted a one-month period to appeal (See: Article 900 bis 08 of Law 22-13 amending and supplementing Law 08-09 concerning the Code of Civil and Administrative Procedures). If an appeal is not filed within this timeframe, the judgment becomes final and can be appealed in cassation. This also applies to urgent orders (Bouzian & Baraka, 2024, p. 184).

2. **Rejection of the appeal on procedural grounds:** When an appeal is rejected on procedural grounds, the initial judgment becomes final and can be appealed to the Council of State. This is because cassation appeals are usually against judgments that resolve the substance of the dispute (See: Articles 349 and 351 of Law 22-13 amending and supplementing Law 08-09 concerning the Code of Civil and Administrative Procedures).

Third: decisions issued by appellate administrative courts.

Appellate administrative courts issue two types of judicial decisions. The first type includes preliminary decisions issued by the administrative appellate court in Algiers in cases of annulment, interpretation, and examination of the legality of administrative decisions issued by central authorities, national public bodies, and national professional organizations. These decisions can be appealed before the Council of State, but not in cassation (See: Article 900, Paragraph 03 of Law 22-13 amending and supplementing Law 08-09 concerning the Code of Civil and Administrative Procedures.).

However, these decisions can become final in two cases:

1. **Failure to Appeal:** If one party is notified of the decision and fails to register an appeal within two

months of the decision being issued, the decision becomes final and can be appealed in cassation.

2. Appeal with procedural defects: If an appeal contains procedural defects, such as being filed late, failing to pay court fees or omitting notification procedures, the Council of State will reject the appeal on procedural grounds. In this case, the decision of the administrative appellate court in Algiers can be appealed in cassation.

Decisions issued by other appellate administrative courts can also be appealed in cassation before the Council of State within the legally specified time frames and conditions.

1.1.3. Adjudicating Cassation Appeals under Special Provisions

According to Article 901 of Law 22-13, which amends and supplements Law 08-09 on civil and administrative procedures, the Council of State is also responsible for adjudicating appeals based on special provisions (See: Article 900 bis of Law 22-13 amending and supplementing Law 08-09 concerning the Code of Civil and Administrative Procedures). This aligns with the content of Article 9 of Organic Law 22-11, which amends and supplements Law 98-01 regarding the organisation and competencies of the Council of State (See: Article 09 of Organic Law No. 22-11 amending and supplementing Organic Law No. 98-01 concerning the Organization, Operation, and Jurisdiction of the Council of State, dated May 30, 1998, Official Gazette No. 48, 2022).

The Council of State acts as a cassation judge in specific disputes, such as those involving the Court of Auditors and the Supreme Judicial Council.

First: The Court of Auditors

Referring to Ordinance 95-20 regarding the Court of Auditors, amended and supplemented by Law 10-02, the legislator organized appeal procedures for the Court of Auditors' decisions under Articles 102 to 110 (Articles 102 to 106 of Ordinance No. 95-20, dated July 17, 1995, concerning the Court of Auditors). These appeals can be classified into two categories: internal appeals conducted within the Court of Auditors (which are outside the scope of this study) and appeals conducted before a judicial body other than the Court of Auditors (specifically, before the Council of State).

Decisions issued by the full assembly of all chambers of the Court of Auditors are subject to cassation appeals. These can be filed by the relevant parties, a lawyer accredited with the Council of State or at the request of the Minister of Finance, the supervisory authorities or the General Inspector. If the Council of State rules to annul the contested decision, the full assembly of chambers is bound by the legal points adjudicated. (Article 110 of Ordinance No. 10-02 dated August 26, 2010, concerning the Court of Auditors, Official Gazette of the People's Democratic).

Secondly, the Supreme Judicial Council:

This council was established under Algeria's first constitution in 1963, and has been included in all subsequent constitutions. The constitutional amendment of 2020 was the first to specify its composition (Article 180 of the Constitutional Amendment of 2020). The constitutional establishment of the Supreme Judicial Council effectively guarantees its independence from the executive and legislative branches. (Gharbi, 2020, p. 71)

Organic Law No. 22-12 defines the methods for electing members of the Supreme Judicial Council, as well as the rules for its organization and functioning. This law grants the Council of State specific powers regarding decisions made by the Supreme Judicial Council. These include adjudicating cassation appeals against decisions issued by the Supreme Judicial Council in its disciplinary capacity (Article 67 of Organic Law No. 22-12, dated to June 22, 2022, which specifies the methods for electing members of the Supreme Council of the Judiciary and the rules for its organization and operation). The Council of State is also responsible for adjudicating appeals concerning the final results of elections for members of the Supreme Judicial Council (Article 39 of the same Organic Law). These powers reinforce the Council of State's role as guarantor of legal legitimacy and protector of rights and freedoms within the framework of the Supreme Judicial Council's operations.

1.2. The Jurisdiction of the Council of State in Appeals

The Algerian legislator has granted the Council of State jurisdiction to hear certain appeals within a regulated legal framework and under specific conditions of form and content. In order to examine this type of administrative appeal, it is first necessary to address its conceptual framework, and then to indicate the areas of appeal for the Council of State.

1.2.1. The Concept of Appeal

Although there are various legal definitions of 'appeal', they all converge on a single meaning. Some define it as a means of challenging a judgment before a second-instance judicial authority, with the aim of having it reconsidered and possibly annulled due to its consequences (Melha, Algerian Judicial Law, 2000, p. 373) Yusuf Delanda defines it as 'a means of ordinary appeal aimed at reviewing or annulling the judgment issued by a court. (Delanda, 2014, p. 39).

While the Algerian legislator did not provide a precise definition of appeal, they did clarify its purpose: to reintroduce the dispute before a higher judicial authority for review in terms of both fact and law, with the aim of reconsidering or annulling the judgment issued by the primary court (Article 332 of the Code of Civil and Administrative Procedures 08-09 as amended and supplemented).

1.2.2. Areas of Appeal before the Council of State

From the provisions of Articles 902 and 937 of Law 22-13, which amend and supplement Law 08-09 on civil and administrative procedures, it is evident that the Council of State serves as an appellate authority for judicial decisions issued by the administrative appeals court in Algiers, and adjudicates appeals relating to urgent orders.

First: Appeals against decisions issued by the Administrative Appellate Court in Algiers

The establishment of administrative appellate courts has resulted in a qualitative shift in the structure of the administrative judiciary. This has reduced the Council of State's role as an appellate authority, as administrative appellate courts now handle appeals against primary judgments issued by administrative courts, except where the Council of State retains jurisdiction under specific provisions. Consequently, the distribution of competences among various administrative judicial bodies has been

reorganised.

According to Article 902 of Law 22-13, the Council of State is responsible for adjudicating appeals against decisions issued by the Administrative Appellate Court in Algiers. This pertains to cases involving the annulment, interpretation and assessment of the legality of administrative decisions issued by the aforementioned entities (central administrative authorities, national public bodies and national professional organizations). (Article 902 of Law 22-13 amending and supplementing the Code of Civil and Administrative Procedures 08-09)

Second: Appeals Against Urgent Orders

The Council of State acts as an appellate judge in urgent matters and is responsible for reviewing orders issued by the administrative appellate court in Algiers. This review must be completed within 15 days of the official notification date, whether via judicial notice or any other legal means that ensures the recipient is aware of the decision (Article 937 of the same law). This is in accordance with the first paragraph of Article 840 of the amended Civil and Administrative Procedures Law, which states: ‘All measures taken and investigative procedures shall be communicated to the parties by all legally available means, including electronic methods’.

2. Judicial Jurisdictions of the Council of State

The Council of State is a supreme judicial body that plays a central role in the administrative judicial system. Its jurisdiction is not limited to traditional appeals (cassation and appeal), but also covers other specialised and exceptional competencies. These competencies include:

- adjudicating conflicts of jurisdiction between judicial bodies;

Resolving cases specified by special provisions.

2.1. The Jurisdiction of the Council of State in Resolving Jurisdictional Issues

Conflicts of jurisdiction, whether positive or negative, may arise, requiring the intervention of a supreme judicial authority to resolve them. To address these issues, Law 08-09 on civil and administrative procedures, as amended, grants the Council of State specialised jurisdiction to settle jurisdictional disputes in cooperation with administrative appellate courts. This procedure aims to ensure the unity of judicial interpretations and the stability of the judicial process, whether in cases of direct conflict or referrals due to connected cases.

2.1.1. Jurisdiction of the Council of State in Resolving Jurisdictional Conflicts

According to paragraphs two, three and four of Article 808 of Law 22-13, which amends Law 08-09 on civil and administrative procedures, the Council of State has jurisdiction in the following cases:

1. Resolving jurisdictional conflicts between two administrative courts falling under the jurisdiction of two appellate administrative courts is assigned to the President of the Council of State.
2. Resolving jurisdictional conflicts between an administrative court and an appellate administrative court is assigned to the President of the Council of State.
3. The resolution of jurisdictional conflicts between two appellate administrative courts, or between an appellate administrative court and the Council of State, is assigned to the latter, sitting in full chambers.

The involvement of the full Council of State chambers in resolving jurisdictional conflicts was the result of the Legal, Administrative and Liberties Committee’s intervention during the discussion of

the original Civil and Administrative Procedures Law draft. This amendment aimed to (Sabki, 2023, pp. 767-768).

- Support judicial interpretations.
- Enhance institutional coordination.
- Give the Council of State's decisions in this area a distinctive and qualitative nature.
- Establish legal security.
- Uphold the principle of specialised justice when determining the competent judicial authority between the Council of State and administrative courts.

2.1.2. System of Connection and Judicial Resolution

The system of connection and judicial resolution aims to streamline the handling of cases involving overlapping jurisdiction, ensuring related matters are resolved cohesively and efficiently.

The Algerian legislator has established a legal framework to address jurisdictional issues that may arise before the administrative judiciary. This framework is set out in sections five and six of the first chapter of the fourth book. Section five covers rules of connection, while section six sets out the rules for resolving jurisdiction-related disputes.

First: Connection between two administrative appellate courts

According to the provisions of the second paragraph of Article 811 of Law 22-13, which amends Law 08-09 on Civil and Administrative Procedures, if the connection involves two administrative appellate courts, the presidents of the two courts shall submit the relevant requests to the President of the Council of State (Abdel Rahman Barabara, previous reference,p566). It is noteworthy that the text explicitly refers to only one scenario: two lawsuits being raised before two administrative appellate courts, where the dispute is referred to the President of the Council of State to determine the connection and identify the competent authority. However, the legislator overlooked the possibility of a single lawsuit being filed with an administrative appellate court that includes requests falling under the jurisdiction of another administrative court. While it may be possible to draw an analogy with what is stipulated for administrative courts, the absence of an explicit provision creates a gap that could give rise to practical issues and necessitate legislative intervention to clarify the situation and remove any ambiguity (Jalab, 2024, p. 107).

It is also worth mentioning that the legislator made a distinction between orders issued by administrative judicial authorities and those issued by the Council of State concerning connection matters. Article 812 of the aforementioned law states: 'Orders of referral mentioned above result in the postponement of the resolution of the dispute.' Orders issued by the presidents of the aforementioned administrative appellate courts are subject to appeal before the Council of State. Orders issued by the President of the Council of State are not subject to any appeal (Article 812 of Law 22-13 amending and supplementing the Code of Civil and Administrative Procedures 08-09).

Second: resolving jurisdictional issues

Following the recent amendments made by the Algerian legislator to the Civil and Administrative Procedures Law under Law 22-13, and the establishment of administrative appellate courts, it has become necessary to reorganize the distribution of jurisdictions within the administrative

judiciary. This involves restructuring the resolution of jurisdictional conflicts, which will now be divided between the administrative appellate courts and the Council of State.

1. Referral to the Council of State

The legislator stipulated in Article 814 of Law 22-13 that: ‘When the administrative appellate court decides on jurisdiction, it shall refer the case to the competent administrative court, and the latter may not declare its lack of jurisdiction.’ When the Council of State decides on jurisdiction, it shall refer the case to the competent administrative appellate court, and the latter may not declare its lack of jurisdiction (Article 814 of the same law).

It can be inferred from this article that, if an administrative appellate court finds itself lacking jurisdiction over a case, its president must refer the file to the Council of State as soon as possible to resolve the jurisdictional issue. The Council of State will then issue an order determining the competent judicial authority, and the court to which the case has been referred may not refuse to hear it on the grounds of lack of jurisdiction. This amendment establishes exclusive jurisdiction for the Council of State in resolving jurisdictional disputes, contrasting with the previous situation where it sometimes resolved matters directly as part of the restructuring of administrative judicial bodies following the establishment of administrative appellate courts (Abdel Kader Jalab, previous reference, p 109).

2.2. Jurisdiction of the Council of State in Adjudicating Cases Under Special Provisions prior to Law 13/22

The jurisdiction of the Council of State to adjudicate disputes under specific legislative provisions is a fundamental pillar in building the administrative judiciary. This role has been particularly reinforced by Article 179 of the 2020 constitutional amendment, which explicitly refers to the need to define the Council’s powers through organic laws. This has been established through Organic Law No. 22-11, amending Organic Law No. 98-01 concerning the Council of State, not to mention the provisions of the Civil and Administrative Procedures Law in Article 903 of its recent amendment, which clearly stipulates the Council's jurisdiction to adjudicate as a first and final instance in cases assigned to it by special provisions.

2.2.1. Jurisdiction of the Council of State in Political Party Disputes

A political party is an organization composed of a group of individuals united by a coherent and integrated political vision. They operate within the existing system to promote their ideas and implement them practically, seeking to attract the support of as many citizens as possible compared to other organizations, with the aim of assuming power or at least participating in political decision-making (Boualchaïr, 2009, p. 122).

The Council of State has jurisdiction over disputes related to political parties as follows:

First: Disputes Arising from the Establishment of Political Parties

Several disputes often arise during the establishment phase of a party, including those related to the refusal to grant permission to hold the founding conference, as well as disputes regarding the refusal to recognize the party by the Minister of the Interior (Masoudi, 2020, p. 375).

1. Disputes Arising from the Refusal to Hold the Founding Conference: If the permission to hold the founding conference is denied, the refusal must be legally justified and can be challenged before the Council of State within 30 days from the date of notification (Articles 18, 20, 21 of Organic Law No. 12-04, dated January 12, 2012, concerning political parties)
2. Appeal against the Minister of the Interior's decision to refuse the founding declaration of the party: It is important to distinguish between the two types of refusal decision that the Minister of the Interior can issue concerning political parties (Jamal, 2019, p. 70).

Refusal of the party's founding declaration: This decision is considered a penalty for failing to meet the substantive conditions for establishing the party. The law grants the minister 60 days to respond, after which silence is deemed implicit approval. Founding members have the right to appeal against this decision before the Council of State at any time.

- Refusal to grant permission to hold the founding conference: This refusal relates to the documents not complying with legal conditions. It is noteworthy that holding the conference remains conditional upon obtaining written permission published in two national newspapers.

3. Disputes arising from the refusal to extend the founding conference: Founding members of a political party must hold their founding conference within one year of the permission being published in two national newspapers. This period can be extended once for a maximum of six months in cases of force majeure, upon request by the founding members and with the approval of the Minister of the Interior. If the Minister refuses to extend the period, this decision can be challenged before the Council of State within fifteen days. The Council will then adjudicate in its capacity as a court dealing with urgent matters (Article 24 of Organic Law 12-04 concerning political parties).
4. Disputes arising from the refusal to grant recognition: The Council of State will consider the decision of the Minister of the Interior regarding the refusal to grant recognition to the party within two months of the notification date. If the appeal is accepted, legal recognition is granted to the party immediately (Articles 27-34 of the same Organic Law).

Secondly, disputes arising from the suspension and dissolution of political parties.

Referring to Organic Law 12-04 mentioned above, the suspension of a political party can take one of two forms.

1. Suspension of activity before approval. The Minister of the Interior has the authority to suspend the activity of any political party under establishment (prior to its approval) in urgent cases that threaten public order, whether before or after its founding conference, if it is found to be in violation of the law or breaching legal obligations. This decision results in the closure of the party's offices

and is subject to appeal before the Council of State (: Article 64 of Organic Law 12-04 concerning political parties)

2. Suspension of an approved political party: The Minister of the Interior can temporarily suspend the activities of an approved political party if it violates the Organic Law. The minister must first notify the party to comply with the law within a specified period. If the party does not comply by the end of this period, the Minister will notify the Council of State to suspend its activities.

The Minister of the Interior can request the dissolution of a political party before the Council of State in four cases: violation of activities, non-participation in elections, repeated violations and cessation of organizational activity. The Council of State rules on the request within two months and, contrary to the general rule, an appeal submitted to it suspends the execution of the dissolution decision (Article 70 of the same Organic Law).

2.2.2. The Jurisdiction of the Council of State in Disputes Involving Independent Administrative Authorities

Independent administrative authorities are regulatory bodies that enjoy functional and legal independence. Established to intervene in sensitive sectors such as information technology, audiovisual communication, administration, markets, stock exchanges and consumer protection, they exercise regulatory and oversight powers independently of the executive authority (Diechoff, 1991, p. 04).

The specific laws governing independent administrative authorities cover most areas of life, including the media sector and the economic sphere. In this section, we will examine some of the independent administrative authorities whose disputes are adjudicated by the Council of State, including those in the media and financial sectors.

First: The Authority for the Regulation of Postal and Electronic Communications

Law 18-04 establishes an independent authority for the regulation of postal and electronic communications. This authority possesses legal personality and financial independence and is located in Algiers. Previously established under Law No. 03-2000 in the context of Algeria's transition to a market economy, this authority aims to organise and regulate the postal and electronic communications market. It is responsible for ensuring free competition and preventing practices that undermine market transparency or balance (Boualjiri & Salmi, 2023, p. 190).

Decisions made by the Authority can be appealed to the Council of State. Appeals against the regulatory authority's decisions can be filed within one month of the notification date. It is important to note that this appeal does not suspend the execution of the decision and that the Council of State will rule on the appeal within two months of its submission (Article 22 of Law 18-04 dated May 10, 2018, which sets the general rules concerning postal and electronic communications).

Secondly, the role of the Council of State in overseeing the Supervisory Committee for Insurance.

The state oversees the insurance and reinsurance sector through the Supervisory Committee for Insurance, which is an independent regulatory body established under Law No. 06-04 (Law No. 06-04, dated February 20, 2006, amending and supplementing Ordinance No. 95-07 concerning insurance). This committee replaced the Minister of Finance in supervising the sector. The Supervisory Committee for Insurance is responsible for organising the insurance market, ensuring its transparency and stability, protecting the rights of policyholders and enhancing trust in the insurance system, all within the framework of applicable legal and regulatory rules (Sidik, 2020, p. 156).

The Council of State is the competent judicial authority responsible for hearing annulment appeals against administrative decisions issued by the Committee for Regulating and Monitoring Stock Exchange Operations. According to Article 9 of Law No. 03-04 concerning the stock exchange of transferable securities, Algerian legislation allows financial intermediaries, in cases of non-approval or partial approval, to file annulment actions against the Committee's decisions before the Council of State (Law 03-04 dated February 17, 2003, amending and supplementing Legislative Decree No. 93-10 dated May 23, 1993, concerning the Stock Exchange of Securities).

Additionally, according to Article 18 of Law 03-04, decisions issued by its disciplinary chamber are subject to appeal before the Council of State. 'Decisions of the chamber adjudicating in disciplinary matters are subject to annulment before the Council of State within one month of the date of notification of the contested decision. The Council shall investigate and rule on the appeal within six months from the date of its registration.'

It is also important to note that, although there are many specific laws governing independent regulatory authorities, most of these laws do not explicitly define the competent judicial authority to adjudicate appeals against the decisions of these authorities, unlike the previous examples (which designated the Council of State). This ambiguity can lead to uncertainty over the competent judicial authority, causing confusion for litigants, particularly in sectors where disputes need to be resolved quickly and efficiently.

2.2.3 The jurisdiction of the Council of State under special texts after the issuance of Law 22-13

However, it should be noted that this jurisdiction existed before the amendment of the Civil and Administrative Procedures Law 08/09 by Law 22-13, as Article 900, Paragraph 03. It indicates that the Administrative Court of Appeal in Algiers has jurisdiction to adjudicate annulment cases and to interpret and assess the legality of decisions issued by central authorities, national public bodies and national organizations. Therefore, political party disputes fall outside the jurisdiction of the State Council, given that the Minister of Interior represents the central authority. The new article of the Civil and Administrative Procedures Law will be applied when the new law relating to political parties is issued. This is for political parties, but the problem remains for the independent tax authorities, whose jurisdiction must be determined for those who refer to their disputes, especially after the amendment of Article 900 of the Civil and Administrative Procedures Law 22/13. With the lack of clarity on the extent to which these authorities are subordinate to the central administration, in addition to the fact that maintaining the jurisdiction of the Council of State in these disputes as a first and last degree is a flagrant violation of the principle of two-degree litigation.

Conclusion

From the above, we can conclude that Law 22-13, which amends and supplements Law 08-09 on civil and administrative procedures, affirms and regulates the role of the Algerian Council of State in ensuring legality and unifying administrative judicial interpretations. The Council's original competencies include considering cassation appeals against final judgments issued by administrative judicial bodies, as well as an exceptional jurisdiction covering appeals against decisions from the administrative appellate court in Algiers. This exceptional jurisdiction applies particularly to cases involving the annulment, interpretation, or examination of the legality of decisions made by central administrative authorities and national professional organisations.

The Council also has the authority to hear appeals relating to urgent orders and to resolve conflicts of jurisdiction among administrative judicial bodies. Numerous specific provisions have assigned it responsibility for adjudicating disputes concerning matters such as political parties and independent administrative authorities.

Through this study, we have drawn several conclusions and recommendations.

Results

1. The 2020 constitutional amendment emphasized the position of the Council of State as a supreme judicial authority with a regulatory nature, aimed at monitoring the work of the administrative judiciary and unifying judicial interpretations.
2. The establishment of administrative appellate courts has contributed to enhancing guarantees for a fair trial and activating the principle of two-tier litigation, thereby alleviating the burden on the Council of State.
3. Law No. 22-13 has reinforced the principle of judicial specialization by redistributing competences and transferring essential appellate powers to the administrative appellate courts.
4. The Council of State's retention of exceptional appellate competencies, particularly in specific disputes, represents an anomaly that contradicts its core regulatory role as a cassation authority, warranting reconsideration.
5. Law 22-13 has maintained the appellate role of the Council of State alongside its original jurisdiction to hear cassation appeals.
6. The Council of State's continued jurisdiction to rule on certain disputes at both the initial and final stages, such as those involving political parties and independent administrative authorities, contradicts the principle of two-tier litigation.

Recommendations:

1. Expand the cassation function of the Council of State and gradually remove it from other judicial tasks that do not align with its regulatory nature.
2. Support the independence of administrative appellate courts by transferring all appellate competences formerly held by the Council of State to these courts.

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3. Amend the legal texts governing jurisdictional disputes to establish precise and clear standards for jurisdictional conflicts, addressing contradictions in some provisions of Law 22-13.
 4. Resetting the jurisdiction of disputes related to political parties through the law regulating it, in addition to clarifying.
 5. Amend certain laws governing independent administrative authorities, particularly with regard to specifying the competent judicial authority to adjudicate their disputes.
 6. The Council of State's continued jurisdiction to rule on certain disputes at both the initial and final stages, such as those involving political parties and independent administrative authorities, contradicts the principle of two-tier litigation.

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