

Administrative Grievance in Algerian Law

Abbes Sadeki

DEAMAPRT Laboratory, Illizi University Center, (Algeria),

sadeki.abbes@cuillizi.dz

Received: 27/09/2025

Accepted: 20/11/2025

Published: 15/12/2025

Abstract:

This study examines the role and evolution of administrative grievance in Algerian law, tracing its transformation from a compulsory procedural step under the repealed Civil Procedure Code (1966–2008) to a discretionary remedy under the Civil and Administrative Procedure Code of 2008. It highlights the legislative fragmentation and institutional ambiguities that have undermined the effectiveness of grievance mechanisms, especially in disputes involving administrative contracts. The article also analyzes the shifting legal requirements for grievance procedures in public procurement, including the role of conciliation committees and their impact on dispute resolution. Based on a critical review of legal texts and jurisprudence, the study concludes with practical recommendations aimed at enhancing the independence, clarity, and efficiency of administrative grievance systems in Algeria.

Keywords: *Administrative grievance; Algerian law; Civil and Administrative Procedure Code; Public procurement; non-judicial remedies.*

1. INTRODUCTION

Administrative grievance is a fundamental mechanism in public law, providing individuals with a non-judicial avenue to challenge administrative decisions and seek redress. In Algerian legal practice, this procedure has undergone notable development—shifting from a mandatory prerequisite for litigation under the repealed Civil Procedure Code (1966–2008) to an optional process under the Civil and Administrative Procedure Code of 2008.

This shift reflects broader efforts to modernize administrative justice and promote more flexible and accessible means of resolving disputes between citizens and public authorities.

Despite its advantages, administrative grievance continues to face persistent challenges that limit its effectiveness. These include fragmented legislation, procedural ambiguity, and a lack of institutional independence. Assigning the review of grievances to the same authority that issued the contested decision raises concerns about impartiality and fairness. This raises a critical question: how effective is the grievance mechanism in providing meaningful remedies, especially when the administration exercises unilateral powers under the guise of public interest?

This study critically examines the legal framework and practical implementation of administrative grievance in Algeria. It highlights the tension between procedural formalism and administrative discretion, and explores the impact of recent reforms on the accessibility and credibility of grievance procedures. By analyzing the evolution of grievance mechanisms and their role in contract enforcement disputes, the study contributes to ongoing debates about the effectiveness of non-judicial remedies in administrative law and the need for institutional safeguards.

The research adopts a doctrinal legal approach, relying on legislative texts, judicial decisions, and administrative practices. It traces the historical development of grievance procedures, compares different regulatory phases, and assesses their impact on dispute resolution. The study also incorporates comparative insights from French administrative law to situate Algeria's experience within a broader legal context. Through this methodology, the research aims to identify structural weaknesses and propose practical reforms to strengthen the role of administrative grievance in Algerian public law.

2. Concept of Administrative Grievance

To understand the concept of administrative grievance, it is essential to examine definitions provided by legal scholars, as well as its key features and types.

2.1 Definition of Administrative Grievance

An administrative grievance is defined as the act of a concerned party submitting a complaint against a decision, they consider unlawful or

detrimental to their legal status (Najm Al-Ahmad, 2013, p. 9). The grievance is directed to the authority that issued the decision or to its superior, requesting the annulment, amendment, withdrawal of the decision, or compensation for any resulting harm.

Some scholars distinguish between two types of administrative review: *petitionary review*, which is submitted to the same authority that issued the contested decision, and *hierarchical review*, which is directed to a higher authority than the one that made the decision—for example, a minister reviewing a decision issued by a governor. Both forms of review are recognized by law, even in the absence of explicit legal provisions (Delvolve, 2001, pp. 15-16).

Professor Mahyou refers to administrative grievance as an “administrative claim,” emphasizing that such claims are submitted directly to the administration and differ from judicial claims brought before a court. These claims may take two forms: a grievance submitted to the official who issued the decision, and a hierarchical grievance submitted to their superior. These administrative procedures do not require specific legal texts to be valid; they are freely exercised and, in principle, are not subject to formal procedural requirements (Mahyou, 1986, p. 377).

One of the key advantages of administrative grievance in resolving disputes is its ability to produce outcomes that may not be achievable through judicial proceedings. Judicial oversight of administrative actions typically focuses on legality, whereas administrative bodies have broader discretion—they may amend or revoke decisions not necessarily because they are unlawful, but simply because they are deemed inappropriate (Jèze, 1904, p. 97). Moreover, administrative grievance generally applies to all administrative actions, not just formal decisions.

2.2 Types of Administrative Grievance

Grievances can be classified based on their necessity into mandatory and optional grievances. They can also be categorized according to the authority they are submitted to: local grievance, hierarchical grievance, or grievance before specialized administrative committees. Some scholars note that administrative grievance is generally an optional procedure that individuals may pursue voluntarily if they believe it could replace the need

for judicial annulment. If a grievance is submitted, it is not necessary to wait for an explicit or implicit response from the administration. Algerian administrative courts have accepted annulment claims filed after a grievance is submitted but before a decision is made on it, provided that the court does not issue a ruling until the administration responds (Habib, 1991, p. 258).

Optional appeal refers to a person voluntarily submitting a complaint to the relevant administrative body, challenging a decision that affects them, and outlining the errors or legal violations involved. The individual seeks redress through amendment, annulment, or withdrawal of the decision. They may choose to bypass the grievance process and go directly to court, especially if they believe the administration is unlikely to respond favorably—based on its previous conduct or the nature of the decision (Al-Aqoun & Barakat, 2017, pp. 93-94). Alternatively, they may opt for administrative grievance in the hope that the administration will acknowledge the error, thus avoiding lengthy court procedures. In this sense, administrative grievance is a non-judicial mechanism aimed at resolving disputes without judicial intervention; if it fails, judicial procedures may then be pursued (Bouzeifi, 2020, p. 887).

The French Law on Relations Between the Public and the Administration defines administrative grievance as “a complaint submitted to the administration with the aim of resolving a dispute arising from an administrative decision” (*La réclamation adressée à l'administration en vue de régler un différend né d'une décision administrative*). Mandatory grievance procedures are typically required in tax disputes, access to administrative documents, membership in regulated professions, military public service matters, foreign residency and naturalization issues, and social security disputes. In other cases, grievance remains optional (Ordinance No 2015-1341, 2015).

In Algeria, both the Tax Law and the Electoral Law maintain the requirement of prior grievance as a means of resolving tax and electoral disputes before resorting to judicial proceedings. The Council of State ruled on 25 February 2003 that “every tax dispute requires the submission of a prior administrative grievance in accordance with Article 337 of the Code of Civil and Administrative Procedure. This procedure is considered a matter of

public order, and the judge must raise it *ex officio*. Failure to submit a prior grievance results in the inadmissibility of the claim brought directly before the court.” (State, 2003, p. 124)

Furthermore, in its decision dated 12 June 2000, the Council stated that “if the tax director remains silent beyond the deadline specified in Article 334, paragraph one, the taxpayer has the right to file a judicial claim within a maximum of eight months from the date of submitting the grievance to the tax director.” It is worth noting that the requirement of prior grievance may be waived even if mandated by law, particularly in urgent cases. (Bahi & Ben Mohamed, 2020, p. 478)

In Egypt, the State Council Law (Law No. 47 of 1972 on the State Council, Egypt.) specifies cases where administrative grievance must be submitted before resorting to court. These cases involve final administrative decisions concerning public employees, including recruitment, promotion, bonuses, retirement, disciplinary dismissal, and leave of absence. Article 12 of the law uses the phrase “grievance to the administrative authority that issued the decision or its superior,” indicating that prior appeal is mandatory, while allowing the complainant to choose between the issuing authority and its superior—especially if the latter has the power to revoke or withdraw the decision. Judicial precedent has confirmed this interpretation. The mandatory grievance procedure in these cases targets decisions that may be withdrawn due to illegality, thereby facilitating employee access to remedies and reducing the burden on the judiciary (Court, 1962, p. 445).

Similar to French administrative courts, Egyptian administrative courts have shown flexibility regarding mandatory grievance as a prerequisite for annulment claims (Najm Al-Ahmad, 2013, p. 21). The Supreme Administrative Court ruled that a claim may be accepted even if the grievance was not submitted beforehand, provided it was filed within the legally prescribed timeframe and resolved before the court issues its judgment. If the administration responds favorably during the proceedings, it bears the legal costs incurred prematurely (Court, 1984, p. 448)

3. Administrative Grievance under the Repealed Civil Procedure Code (1966–2008) and the Civil and Administrative Procedure Code of 2008

It is important to note that the repealed Civil Procedure Code, enacted by Ordinance No. 66-154, addressed the issue of administrative grievance upon its issuance. Article 275 of the Code explicitly referred to this mechanism. The provision was reaffirmed and expanded through Ordinance No. 69-77, which introduced Article 169 bis, stipulating the requirement of prior administrative appeal before resorting to judicial proceedings in cases involving administrative decisions.

Although the wording of this article appears to grant the complainant the choice between submitting the grievance to the issuing authority or its superior, the French version of the text—as well as the interpretation of Article 275—suggests that the grievance must be directed hierarchically to the authority superior to the one that issued the decision. In the absence of such a superior authority, the grievance may be submitted to the issuing body itself. This interpretation was confirmed by the Supreme Court in its ruling dated 26 June 1982, which stated: “For an administrative appeal to be admissible, it must comply with the requirements of Article 275 of the Civil Procedure Code, which mandates that the appeal be submitted hierarchically to the administrative authority directly above the one that issued the decision; if no such authority exists, then to the issuing authority itself.” This principle has been consistently upheld in subsequent administrative jurisprudence.

Following the amendment of the Civil Procedure Code by Law No. 90-23, Article 275 was retained, while Article 169 bis was revised. Through this reform, the Algerian legislator abandoned the requirement of administrative grievance for claims falling under the jurisdiction of the administrative chambers of judicial councils (i.e., administrative courts), while maintaining it for claims under the jurisdiction of the Administrative Chamber of the Supreme Court (Council of State) (Counci, 1982, p. 168). Additionally, the reform introduced Article 169-3, which imposed a new procedural obligation: the judge is required to initiate a conciliation process between the parties to the administrative dispute before commencing formal litigation proceedings

Although administrative grievance represents a direct path to

resolving administrative disputes, its regulation and mandatory imposition prior to judicial recourse in Algerian legislation has been subject to criticism. Consequently, with the enactment of the Civil and Administrative Procedure Code in 2008, the Algerian legislator formally established the optional nature of administrative grievance. It is no longer a procedural shield protecting the administration from being sued in court—whether in disputes under the jurisdiction of administrative courts or the Council of State.

The grievance procedure is governed by Articles 830 and 907 of Law No. 08-09. These provisions not only affirm the complainant's freedom to choose whether to pursue a grievance but also designate the competent authority to receive it as the one that issued the contested decision (i.e., a local grievance), in contrast to the repealed Civil Procedure Code, which favored hierarchical grievance. Furthermore, the time limit for submitting a grievance has been extended to four months from the date of notification or publication of the decision (Kamoun, 2018, pp. 156-157).

On the other hand, the period granted to the administration to respond has been reduced to two months from the date of submission—down from three months under the repealed law.

4. Administrative Grievance in the Context of Administrative Contracts and Public Procurement

Certain legislative texts have stipulated that specialized committees are responsible for reviewing appeals and grievances related to the execution of specific administrative contracts. It is important to note that the jurisdiction of these committees is limited to disputes arising during the execution phase of contracts. They do not cover disputes related to contract formation, candidate selection, or post-contract issues such as warranty claims. Moreover, these committees do not handle disputes involving contracts of industrial or commercial entities.

Some scholars (Ghellab, 2018, p. 118) argue that “the Algerian legislator adopted the principle of amicable settlement for disputes arising from the execution of public procurement contracts as a general rule, with judicial recourse being the exception.” However, this conclusion cannot be accepted unconditionally. The requirement to pursue amicable settlement procedures is justified by the need for swift resolution of execution-related

disputes, which in turn facilitates timely contract implementation. The Algerian legislator mandated prior grievance only through conciliation committees, excluding other alternative dispute resolution mechanisms. This requirement does not replace litigation as the primary method of dispute resolution, nor does it elevate alternative mechanisms to the status of default procedures.

The evolution of the requirement to submit grievances to conciliation committees in public procurement disputes can be traced through three key phases:

4.1 Before the Issuance of Presidential Decree No. 02-252

Ordinance No. 67-90, (No.67-90, 1990) which governed public procurement, stipulated in Article 152 that “a consultative committee shall be established by decision, tasked with examining disputes related to public procurement and identifying fair elements that may be accepted for amicable settlement. Procedures before this committee are mandatory and must precede any judicial action.” This committee was chaired by a judge and composed of three senior officials from the relevant ministry and two representatives from professional organizations. Access to the committee was granted only through a formal grievance submitted by the contracting party.

In application of these provisions, the Supreme Court (Administrative Chamber) ruled on 9 November 1985 that “it is legally required to submit disputes arising from the execution of public procurement contracts to the consultative committee established under the procurement law for amicable settlement before initiating judicial proceedings. Hierarchical appeal does not substitute for this procedure, and rulings consistent with this principle are in accordance with the law.” (Chamber, Supreme Council, Administrative Chamber, Decision No. 43731, dated November 19, 1985, Judicial Journal, 1990, Issue No. 2, p. 175., 1985, p. 187)

It is worth noting that administrative grievance in this context was not an independent channel for dispute resolution but rather a formal request for the administration to refer the dispute to the consultative committee. This was confirmed by the Supreme Court in its ruling dated 9 January 1985, which stated: “In the present case, the appellant failed to submit a request under Article 100 of the Public Procurement Law to the Minister of Water

Resources to refer the dispute to the consultative committee. Instead, he relied solely on hierarchical appeal, which invalidates his claim that the judicial council erred in its ruling.”

Further confirmation came in the ruling of 31 December 1988, which stated: “Procedures before this committee are mandatory and must precede any judicial action, except in cases where the administrative authority fails to initiate the procedure. (Chamber, 1988, p. 161) In such cases, the claimant may refer the dispute to the judiciary within the legal time frame.” Executive Decree No. 91-434 also referred to the “amicable administrative grievance submitted by the contracting party before any litigation,” and Article 101 of the decree established consultative committees at the level of ministers, governors, or municipal council presidents, depending on the case. These committees were tasked with identifying fair elements for amicable settlement, thereby extending the establishment of conciliation committees to the local level.

4.2 After the Issuance of Presidential Decree No. 02-250

Presidential Decree No. 02-250, in Article 102, stated that “the contracting party may submit an appeal, prior to any litigation, to the National Committee for Public Procurement.” This provision was reaffirmed in Presidential Decree No. 10-236, which replaced the earlier decree. As a result, the legislator abandoned the requirement of mandatory prior grievance. In line with this change, the Council of State ruled on 7 June 2005 that “these provisions were amended by Presidential Decree No. 02-250 dated 24 July 2002. The contractor may, before initiating legal proceedings, submit an appeal to the National Committee for Public Procurement under the new Article 102, but this is optional and not mandatory.” (State, 2005, p. 90)

4.3 After the Issuance of Presidential Decree No. 15-247

Although the Public Procurement Law had previously abandoned the requirement of mandatory prior grievance before conciliation committees, Presidential Decree No. 15-247 reinstated it. Article 153 of the decree emphasizes the need for the contracting authority to seek amicable resolution with the contractor and states: “In the event of disagreement between the parties, the dispute shall be referred to the competent conciliation committee

established under Article 154 below. The contracting authority must include in the terms of reference the requirement to pursue this conciliation procedure before any legal action.” These committees are established at the level of ministries, national administrative public bodies, and provinces.

From the above, it is evident that current Algerian legislation has made grievance or complaint before administrative committees a mandatory procedure prior to judicial recourse in disputes related to the execution of administrative contracts. In contrast, French legislation treats this procedure as optional.

Furthermore, the role of these committees is clearly defined: they are tasked with examining both legal and factual elements to reach a fair and amicable resolution. The Public Procurement Law stipulates that “the committee must examine the legal and factual elements to reach a fair and equitable settlement of disputes arising from the execution of contracts submitted to it” (Article 153/4)

These are the same provisions set out in Law No. 23-12 on the General Rules of Public Procurement, specifically in Articles 87 and 88 (Law n 23 12, 2023).

Commenting on the evolution of prior grievance in Algerian legislation, some scholars (Al-Aqoun & Barakat, 2017, p. 410) argue that administrative grievance proves effective when it receives genuine attention from the administration, whether at the local or hierarchical level. Although the Code of Civil and Administrative Procedure treats it as an optional method, in practice it has demonstrated its role and effectiveness in resolving many disputes amicably and promptly, without the need for judicial intervention. While it is legally and judicially optional, its practical benefits have made it a necessary step for complainants, as it saves time and effort compared to litigation.

5. CONCLUSION

While administrative grievance remains a direct and potentially effective mechanism for reviewing administrative decisions, its practical application in Algerian law continues to face significant criticism and legislative shortcomings that have collectively weakened its role and limited its impact.

Several factors contribute to its diminished effectiveness, including the multiplicity and ambiguity of legal texts governing the procedure, and the fragmentation of competent authorities—particularly evident in areas such as tax disputes. Moreover, assigning jurisdiction over the grievance to the very authority that issued the contested decision places that body in the dual role of judge and party, which undermines impartiality and reduces the likelihood of a fair reconsideration. In many cases, the decision-maker may be reluctant to reverse their own decision, and their administrative superior may be inclined to support it.

To address these concerns, proposals have emerged advocating for the establishment of specialized committees or administrative bodies within public institutions to handle complaints. However, these committees often remain structurally linked to the administration, raising doubts about their independence and exposing them to the same procedural flaws that affect administrative decision-making.

Although the opinions issued by conciliation committees are not legally binding, some scholars argue that their involvement exerts a form of moral authority over the parties involved. Nevertheless, administrative grievance may prove ineffective in certain disputes related to the execution of administrative contracts. This is particularly true given the nature of decisions issued during contract execution and the unique relationship between the contractor and the contracting administration.

Decisions made during contract execution vary widely and may be issued not only in the administration's capacity as a contracting party but also in its role as a public authority. These decisions—such as modifying the scope of work, suspending execution, altering implementation paths, or even unilaterally terminating the contract—are often justified under the principle of public interest. Theoretically, such decisions are unlikely to be reconsidered through grievance procedures, as they possess all the characteristics of administrative acts, including the presumption of legality and immediate enforceability.

Furthermore, the contractor's position vis-à-vis the administration is weakened by the perception that they act in cooperation with or on behalf of the administration in managing public services. This dynamic, coupled with

the absence of genuine procedural safeguards, has hindered the effectiveness of grievance procedures as a viable means of dispute resolution. The continued practice of granting the administration extended timeframes—often several months—to respond to grievances further discourages contractors from pursuing this route, prompting them instead to seek judicial remedies.

Findings and Recommendations

- The current framework for administrative grievance lacks the clarity and coherence necessary to function as an effective alternative to litigation. A comprehensive legislative reform is needed to streamline procedures and clearly define the roles of competent authorities.
- Independent grievance committees should be established, structurally and functionally separate from the administration, with clearly defined powers and procedural safeguards to ensure impartiality.
- The timeframe for administrative response to grievances should be reduced to no more than thirty days, in order to promote efficiency and timely resolution.
- In the context of administrative contracts, legal guarantees for contractors should be strengthened, and the scope of the administration's unilateral decision-making powers should be clearly delineated and subject to review.
- Finally, legal awareness among contractors and administrative stakeholders should be enhanced through training and guidance mechanisms, enabling more effective and informed use of grievance procedures.

6. Bibliography List:

1. Ordinance No 2015-1341 .(2015) .Code of Relations Between the Public and the Administration, France, enacted by Ordinance No. 2015-1341 of October 23, 2015 .
2. Abdelhak Ghellab .(2018) .Amicable Settlement of Public Procurement Execution Disputes as a Guarantee of Enforcement under Presidential Decree No. 15-247 .*Ma'ālim Journal for Legal and Political Studies*, Issue No. 4. ,
3. Administrative Chamber .(1985) .*Supreme Council, Administrative Chamber, Decision No. 43731, dated November 19, 1985, Judicial Journal, 1990, Issue No. 2, p. 175 .*

4. Administrative Chamber .(1988) .*Supreme Council, Administrative Chamber, Decision No. 62252, dated December 31, 1988, Judicial Journal, 1992, Issue No. 2, p. 161 .*
5. Bahi, H., & Ben Mohamed, M. (2020). Conditions for Filing Tax Litigation by the Taxpayer Before the Administrative Judiciary, *Journal of Judicial Jurisprudence*, , No. 21.
6. Council of State .(2003) .*Decision No. 6325, dated February 25, 2003, Case (S.A.B) v. Directorate of Taxation of Béjaïa Province, Journal of the Council of State, Vol. 3, 2003, p. 124 .*
7. Council of State .(2005) .*Council of State, First Chamber, Decision No. 21173, dated June 7, 2005, Journal of the Council of State .*
8. Delvolve, G. V. (2001). *Administrative Law, Vol. 1, translated by Mansour Al-Qadi, 1st Edition*, . Beirut, Lebanon : University Institution for Studies, Publishing, and Distribution.
9. Habib, M. A.-S. (1991). *Administrative Judiciary (Principle of Legality, State Council, Annulment Jurisdiction)* . Ain Shams University, Egypt.
10. Hussein Kamoun .(2018) .The Effectiveness of Administrative Grievance as a Means of Amicable Settlement of Administrative Disputes in the Civil and Administrative Procedure Code and Special Laws,, Faculty of Law and Political Scienc *Journal of Rights and Freedoms*.
11. Jèze, G. (1904). *Administrative Law* . Paris : Berger-Levrault.
12. Law n 23 12, L. N.-1. (2023). *Law No. 23-12, dated 18 Muharram 1445 (corresponding to August 5, 2023), establishes the general rules governing public procurement.*
13. Mahyou, A. (1986). *Lectures on Administrative Institutions, translated by Dr. Mohammed Arab Saseela, 4th Edition*. Algeria: OPU (Office des Publications Universitaires).
14. Meriya Al-Aqoun و Mohamed Barakat .(2017) .Regulation of Administrative Grievance in the Civil and Administrative Procedure Code , *Journal of Law and Human Sciences, University of Djelfa, Vol. 10, No. 1.*
15. Najm Al-Ahmad. (2013). Administrative Grievance . *Damascus University Journal for Economic and Legal Sciences, Syria, Vol. 29, No. 3.*
16. Ordinance No.67-90 .(1990) .*Ordinance No. 67-90, dated 9 Rabi' al-Awwal 1378 (corresponding to June 17, 1967), concerning the Public Procurement Law (repealed), Official Gazette of the Algerian Republic, No. 52/1967, dated June 27, 1967 .*
17. Sharifa Bouzeifi .(2020) .Administrative Grievance as a Mechanism for Resolving Administrative Disputes – A Comparative Study Between the Civil Procedure Code 66/154, the Civil and Administrative Procedure Code 08/09, and the Public Procurement Law *Journal of the Voice of Law, Vol. 7, No. 1.*
18. Supreme Administrative Court .(1962) .*Supreme Administrative Court, Judgment in Appeal No. 1692, Year 6 Judicial, dated March 17, 1962, Official Collection, Vol. 7, Egyptian State Council, 1962, p. 445 .*
19. Supreme Administrative Court .(1984) .*Judgment in Appeal No. 0396, Year 26 Judicial, dated January 17, 1984, Technical Office, Vol. 29, Egyptian State Council, 1984, p. 486 .*
20. Supreme Councili .(1982) .*Supreme Council, Decision No. 29935, dated June 26, 1982, Case (W.M) v. Governor of Oran Province, Judicial Bulletin, Issue No. 1, 1989, p. 168 .*