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**The principle of two-level litigation in administrative matters in practice
(Study in Light of the recent legal amendments)**

MOUASSA SONIA NADIA^{*}

University Center Morsli Abdellah, Tipaza (Algiers),

mouassa.sonia@gmail.com

mouassa.sonia@gmail.cu-tipaza.dz

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^{*}Corresponding author

Abstract:

This study concerns the establishment of one of the most principles governing the Algerian judicial system, which is the principle of two-tier litigation in **"administrative matters."** This principle was consecrated for the first time in the 2020 constitutional amendment, stipulated in Article 165, paragraph 3, as follows: **"The law guarantees two-tier litigation and defines the conditions and procedures for its application."**

Keywords: Administrative Judiciary Hierarchy; Administrative Courts of Appeal; Two-tier Litigation Principle; Rights of Defense; Bringing Justice Closer to Citizens.

1- Introduction:

"**Building the Rule of Law**" is a slogan that the Algerian state has championed since its independence.

To achieve this, a series of Improvements have been implemented, culminating in the adoption of the dual judicial system through the 2020 constitutional amendment (The Constitutional Amendment of 2020, issued pursuant to the Presedentiel Decree, dated september 15,2020, includes summoning the electoral body for a referndum on the draft amendment to the constitution, P4). This amendment, under Article 179, found the Council of State as the body responsible for overseeing the actions of the Administrative Judicial authorities. Furthermore, the organic law No. 22-10 (Organique Law NO. 22_ 10, dated june 9,2022, relating to judicial organization, P6) , on the judicial organization. In addition, law No. 22-07 (Law NO. 22_ 07, dated May 5,2022, relating to judicial division, P4), dated 4 Shawwal 1443, corresponding to May 5, 2022, on judicial division was issued, where Article 8 states: "**Six (6) Administrative Courts of Appeal are established, with their seats in Algiers, Oran, Constantine, Ouargla, Tamanrasset, and Béchar...**".

Among the significant amendments also issued is law No. 22-13 (Law No. 22-13, 2022, dated julay 12,2022,Amends and supplements Law NO. 08- 09 , dated February25, 2008,includes the code of civil and administrative procedures).

The Algerian legislator made a qualitative leap concerning the subject of "**The principle of two-tier litigation in administrative matters in practice.**" With this, the hierarchy of administrative courts now includes the Council of State at the top, Administrative Courts of Appeal as appellate bodies, and administrative courts. (Law NO. 08- 09 , dated February25, 2008,includes the code of civil and administrative procedures), on the Civil and Administrative Procedures Code.

This development reflects one of the most important principles underlying the Algerian judicial system, namely the principles of judicial dualism and two-tier litigation in administrative matters, which is guaranteed to litigants. (MOUASSA, The Urgent Administrative Lawsuit for the Protection of Public Rights and Freedoms Under the Provisions of Law No. 08-09 on the New Civil and Administrative Procedures Code ,P4) .

The importance of studying the subject of "The principle of two-tier litigation in administrative matters in practice" arises from this context, particularly in light of law No. 22-13, on the Civil and Administrative Procedures Code and according to the latest legal amendments issued in this regard.

This study aims to clarify the recent elements introduced by the Algerian legislator about the principle of two-tier litigation in administrative matters in practice and to evaluate its **advantages** and disadvantages. This is especially important as the Algerian legislator has made significant procedural developments under law No. 22-13, on the Civil and Administrative Procedures Code.

Reasons for choosing this topic stems from several reasons, some of which are objective while others are subjective. The objective reasons lie in the Extreme

importance of the subject of "The principle of two-tier litigation in administrative matters in practice," as well as the novelty of its legal framework under Law No. 22-13, which amends the 2008 Civil and Administrative Procedures Code. This novelty has resulted in a scarcity of specialized references and studies on the subject, given its recent introduction and its relevance to current legal discussions.

In light of the above, we have formulated the following research question: **what new elements has the Algerian legislator introduced, and what are the advantages and disadvantages of the principle of two-tier litigation in administrative matters?**

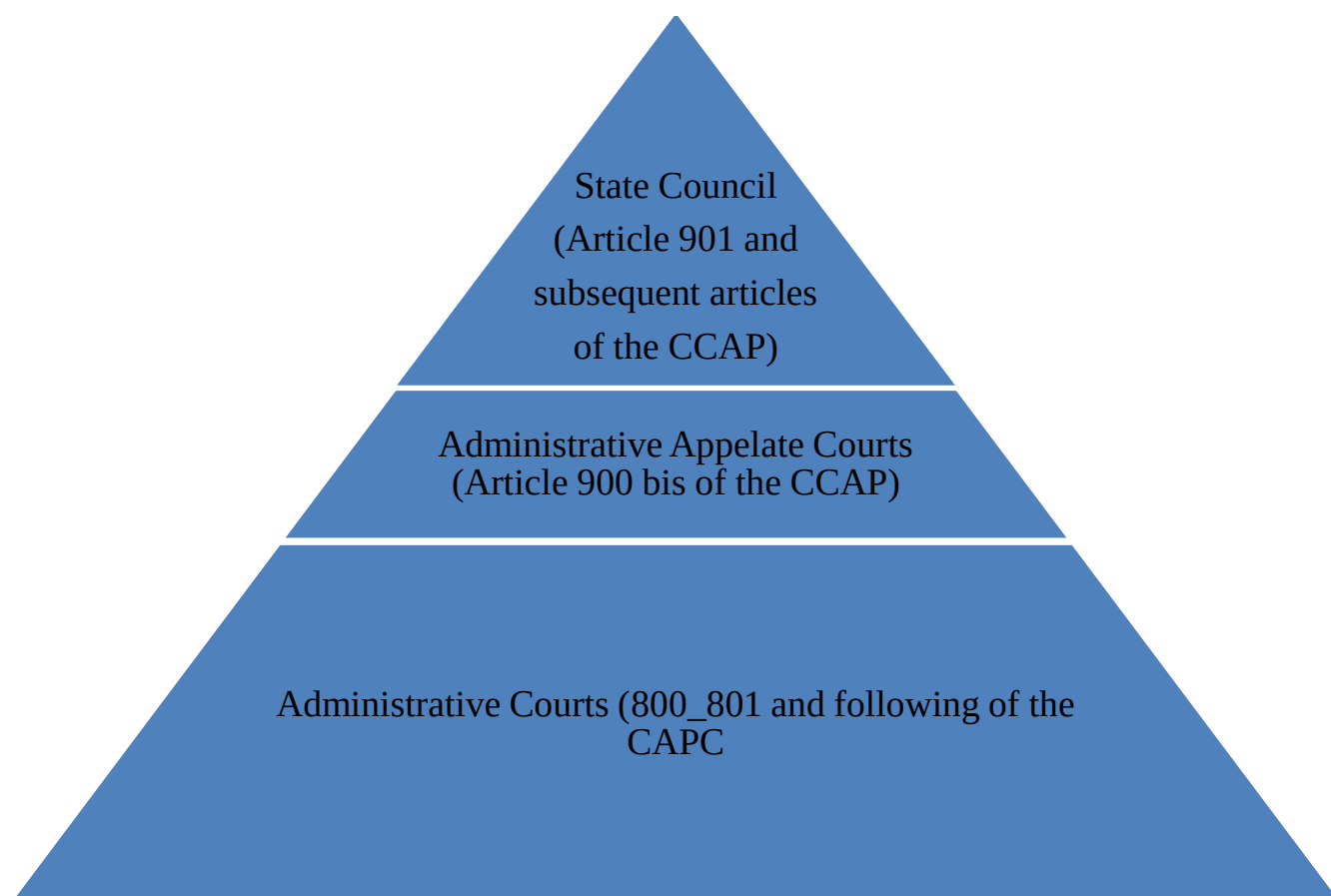
To answer this research question, we have adopted a descriptive methodology in our study to explore and delve into the concept of two-tier litigation by examining the actions taken by the Algerian legislator.

However, we have balanced this approach to ensure that our study incorporates both theoretical and practical perspectives. We have also utilized an analytical methodology, which involves analyzing the legal texts related to the principle of two-tier litigation in administrative matters in practice through administrative courts and Administrative Courts of Appeal under the provisions of Law No. 22-13 , as well as specific texts in various related laws.

Based on this approach, we have divided the subject of this study into two main chapters: The first chapter examines administrative courts as the first tier of litigation (courts of general jurisdiction), while the second chapter is dedicated to studying Administrative Courts of Appeal as the appellate authority.

Finally, we conclude this study with a series of findings and recommendations, which are presented in the conclusion of this study.

The Hierarchy of Administrative Judiciary



The principle of two-tier litigation in administrative matters

2- Administrative Courts as the First Tier of Litigation

2-1 The Conceptual Framework of Administrative Courts:

2-1-1 The Legal Basis for the Establishment of Administrative Courts According to the Latest Legal Amendments:

- Constitutional Basis:

The fundamental constitution to specify the establishment of administrative courts dates back to 1996 (Constitution of the republic of ALGERIA of 1996, P29). This is clear from the text of Article 152, where the constitutional legislator enshrined the principle of judicial dualism, replacing the previously applied system of judicial unity before 1996.

In this system, administrative courts were considered courts of general jurisdiction in administrative matters. This is contrasted with Article 179 of the 2020 constitutional amendment mentioned earlier.

- Legislative Basis:

Legislative Basis in the establishment of administrative courts is reflected in the legal texts that instituted these courts, with the first being Law No. 98-02 (Law No.98-02, DATED MAY 30, 1998, RELATING TO ADMINISTRATIVE COURTS,) dated May 30, 1998, on administrative courts (currently repealed). This law was previously the governing statute for administrative courts until it was repealed by Organic Law No. 22-10 on judicial organization mentioned

earlier. In 2008, the Algerian legislator initiated a significant amendment by introducing a new law that included civil and administrative procedures, namely Law No.08-09, which contains the Civil and Administrative Procedures Code (CAPC). This law effectively separated civil matters from administrative matters by dedicating a special book to administrative procedures. The establishment of administrative courts was addressed in Articles 800-801 and subsequent provisions of the aforementioned law.

In the context of recent reforms affecting the legal system, the Algerian legislator issued several noteworthy legal texts, which included structural and procedural reforms. One of the most significant of these is Law No. 22-13, which amends and supplements Law No. 08-09 that encompasses the CAPC.

- Organizational Basis:

In accordance with the provisions of Law No. 22-07 on judicial division mentioned earlier and as per Article 10 thereof, the Algerian legislator stipulated that the determination of administrative courts is to be carried out through regulatory measures.

Under Executive Decree No. 98-356 (Executive Decree No.98-356 of november 14,1998 specifies the methods for implementing the provisions of law NO.98-02 relating to administrative courts ,p4) dated November 14, 1998, which specifies the application modalities of Law No. 98-02 on administrative courts, the number of administrative courts was initially set at thirty-one (31), functioning as general jurisdictional bodies in administrative matters. This is specified in Article 2 of this decree. However, under Executive Decree No. 11-195 (Executive Decree No.11-195, of May 22, 2011, amending and supplementing Executive Decree No. 98-356, Which specifies the methods for implementing the provisions of law NO.98-02 relating to administrative courts p10) dated May 22, 2011, which amended Decree No. 98-356 mentioned above, the number of administrative courts was increased to 48 across the entire national territory. Following the new amendments to the judicial system concerning judicial division, Decree No. 22-435 (Executive Decree No.22-435, dated December 11, 2022, p4).

This decree selected the number of administrative courts to(58) nationwide, with their territorial jurisdictions defined according to the second annex of this decree.

2-1-2 Structure, Organization, and Number of Administrative Courts According to the Latest Legal Amendments

As previously mentioned, Organic Law No. 22-10 on judicial organization repealed Law No.98-02, which confirmed the administrative courts.

From these two legal texts, it becomes clear that the recent additions built by the Algerian legislator concerning the structure of administrative courts include the appointment of judges responsible for petitions and judges responsible for adjudication, while maintaining a collective structure.

Therefore, the obligation of legal representation by a lawyer has been removed. As a result, the administrative judge is now required not to dismiss a case for formal defects but rather to correct and address any material errors present in the petition.

Article 34 of Law No.22-10, changed the organizational structure of administrative courts so that they are now organized into divisions and then subdivided into sections, which is the opposite of the old law. It should be noted that since their inception, the administrative courts have faced the challenge of their numbers, due to several factors, both material and human, which have affected various sectors, particularly the judiciary. Under Decree 98-356 mentioned above, and according to Article 4, Paragraph 2, the number of administrative courts was initially set at 31.

2-2 Judicial Jurisdiction of Administrative Courts:

Administrative courts hold general jurisdiction over administrative disputes. The Algerian legislator has defined their jurisdiction based on the organic criterion as the primary basis, and the material criterion as an exception (CHIHOUB ,P 495) . This can be observed through the interpretation of Articles 800, 801, and 802 of the Civil and Administrative Procedure Code, in addition to territorial jurisdiction.

2-2-1 Subject Matter Jurisdiction of Administrative Courts:

A key question that arises is: What new provisions did the Algerian legislator introduce when amending Law No.08-09 through Law No. 22-13 concerning the subject matter jurisdiction of administrative courts?

In assigning jurisdiction to administrative courts, the Algerian legislator relied primarily on the organic criterion, as mentioned earlier. This criterion shall be based on the entity, body, or organization involved in the dispute pursuant to the provisions of article 800 of the Civil and Administrative Procedure Code (MOUASSA, Administrative Control Authorities in Exceptional Circumstances, P 20).

The Algerian Legislator relied on the organic criterion to differentiate between ordinary and administrative disputes, aiming to simplify the procedures for administrative litigation, which has a unique nature compared to ordinary litigation. Therefore, as a general rule, administrative courts are competent to hear disputes involving the state, province, municipality, public administrative institutions, or national bodies and national professional organizations.

However, it is worth noting that the Algerian legislator, through the recent amendment to the Civil and Administrative Procedure Code by Law No. 22-13, included **national professional organizations and national public bodies** in Article 800, so if they are parties to a dispute, they fall within the jurisdiction of the administrative courts. Consequently, Article 801 of the same law refers to **"regional professional organizations," which has caused confusion and ambiguity among legal experts. Is there a contradiction, or has the Algerian legislator intended something different?**

Therefore, the Algerian legislator did not mean that administrative courts are to hear as the first instance cases of annulment, interpretation, and assessment of the legality of administrative decisions (MOUASSA, SONIA NADIA "Updates on the New Civil and Administrative Procedure Code - Law 22-13 dated July 12, 2022 ,PP 53-72) issued by national public bodies and national professional organizations, as these fall under the jurisdiction of the

administrative courts of appeal according to Article 900 bis and following. In our opinion, Articles 800 and 801 pertain to **full jurisdiction cases** rather than annulment.

2-2-2 Territorial Jurisdiction of Administrative Courts:

To begin with, it should be noted that unlike the territorial jurisdiction of ordinary judicial bodies, the territorial jurisdiction of administrative judicial bodies is of public policy, meaning that parties cannot agree to deviate from it.

The Algerian legislator addressed the issue of territorial jurisdiction generally in Articles 807\ 37 and 38 of the CCPA, which state that territorial jurisdiction is assigned to the judicial body within whose jurisdiction the defendant's domicile is located. If the defendant does not have a residence, it is the last domicile they had or the chosen domicile, unless the law specifies otherwise. However, for administrative disputes, the jurisdiction of each administrative court has been specified by Decree 22-435 mentioned above.

It is noteworthy that the Algerian legislator introduced some exceptions to the territorial jurisdiction of administrative courts based on the principle of the place of activity (Article 804), which has undergone some amendments under Law No. 22-13. For issues related to the execution of judgments issued by administrative judicial bodies, the case is now brought before the head of the judicial body that issued the judgment in question, not the collective chamber or its president (administrative chamber). Other rules for determining the territorial jurisdiction of administrative courts are mentioned in various provisions, including Articles 39, 40, 41, 804, 805, and 806 of the CCPA. For example, in tax disputes, jurisdiction is assigned to the court within whose jurisdiction the tax is imposed. For administrative contract disputes, jurisdiction is assigned to the administrative court within whose jurisdiction the contract was concluded or executed.

3- Administrative Courts of Appeal :

One of the most important principles underlying the Algerian judicial system is the "**two-tier litigation principle**," which was first enshrined in the administrative legal system by the constitutional amendment of 2020, as stated in Article 179. In this regard, it should be noted that the Algerian legislator introduced a significant procedural development through this law. The legislator aimed to address all aspects related to the administrative courts of appeal, dedicating an entire chapter to this subject. This chapter, titled "**Procedures before the Administrative Courts of Appeal**," consists of four sections detailed in Articles 900 bis to 900 bis 9.

3-1 The Conceptual Framework of Administrative Courts of Appeal:

3-1-1 Definition of Administrative Courts of Appeal:

According to the Organic Law No. 22-10, dated June 9, 2022, on the judicial organization, Article 29, Paragraph 1 states: "**The administrative court of appeal is considered an appellate court for judgments and orders issued by administrative courts...**" From this text, it is evident that the Algerian legislator established administrative courts of appeal to hear appeals against judgments and orders issued by administrative courts, a role previously assigned to the State Council. This change was intended to effectively enshrine one of the key judicial principles underpinning the Algerian judicial system, namely, the principle of duality of jurisdiction, thus creating parity between ordinary and administrative courts. Additionally, it reinforces the principle of two-tier litigation in administrative matters (GIANLUCA Maria Esposito, PP 831- 859), similar to civil matters, to ensure proper administration of justice, respect for the rights of defense, and the achievement of a fair trial in a rule-of-law state.

Administrative courts of appeal can be defined as follows: they are a second tier of litigation in administrative matters, responsible for hearing appeals against judgments and orders issued by administrative courts. They are also tasked with handling cases assigned to them by specific texts, along with additional responsibilities specified in various provisions of the Civil and Administrative Procedure Code, which will be detailed in this section.

3-1-2 The Legal Basis for Administrative Courts of Appeal:

- The Constitutional Basis:

The constitutional founder established the administrative courts of appeal for the first time through Article 179 of the constitutional amendment of 2020 .

In other words, Article 179 above is the **first legal text** to enshrine the establishment of administrative courts of appeal since the constitutional founder's adoption of the dual judiciary system in Algeria under the 1996 Constitution (MOUASSA, Recent Developments in the New Civil and Administrative Procedure Code - Law No. 22-13 dated July 12, 2022,").

- The Legislative Basis:

looking various legal texts that enshrined the establishment of administrative courts of appeal reveals that the first of these was Ordinance No. 21-01 (Ordinance No. 21-10, dated March 10, 2021), dated March 10, 2021, on the Organic Law on the **Electoral System**. Pursuant to Articles 129, Paragraph 2; 183, Paragraph 5; and 186, Paragraph 5 of this ordinance, the possibility of appealing against judgments issued by administrative courts in electoral disputes is provided before the regionally competent administrative courts of appeal.

Through these texts, the Algerian legislator enshrined for the first time the principle of two-level litigation in electoral disputes as a fundamental guarantee for litigants, a principle long advocated by many legal professionals.

As previously mentioned, on May 5, 2022, Law No. 22-07, on the judicial division referred to above was issued. Article 8 of this law states: "**Six (6) administrative courts of appeal are established, ...**" Article 9 of the same law provides for the establishment of administrative courts within the jurisdiction of

each administrative court of appeal, and Article 10 specifies the determination of the jurisdictional boundaries of the judicial bodies mentioned in the above chapter by regulation. Furthermore, the **Organic Law No. 22-10** on the judicial organization, as mentioned above, was issued, stating in Article 04.

What truly deserves appreciation is the enactment of Law No.22-13 CAPC

The Algerian legislator built a significant leap regarding "Administrative Courts of Appeal" for the first time in the history of the procedural system by dedicating an entire chapter to it. This Chapter One bis is titled " On Procedures Followed Before Administrative Courts of Appeal" and includes four (4) sections, covered in Articles 900 Repeated to 900 bis 9.

- **The Organizational Basis for Administrative Courts of Appeal:**

The jurisdiction of administrative courts of appeal is determined by regulation specially Article 10 of Law No. 22-07 on judicial division mentioned earlier.

In this regard, Decree No. 22-435, identifies the regional jurisdictional boundaries of administrative courts of appeal.

Based on this, a question arises: What is meant by the regional jurisdictional boundaries of the administrative courts of appeal?

In reality, there is an imbalance in the number of administrative courts within each jurisdiction. For example, the regional jurisdiction of the administrative courts of appeal for Constantine, Oran, and Ouargla is more extensive compared to the administrative courts of appeal for Ouargla, Tamanrasset, and Bechar.

This, in our opinion, is due to the lower population density, fewer provinces, and reduced administrative activity in these areas.

Why has a specialized administrative court not been established in each province, as is the case with the 58 administrative courts, and similarly to the ordinary judiciary's judicial councils?

In our view, after more than 26 years since the establishment of administrative courts of appeal in practice, increasing their number currently is difficult due to several factors, including:

_ **Current Conditions:** The country, particularly after the spread of the COVID-19 pandemic and its severe and ongoing effects, faces significant financial constraints. Increasing the number of administrative courts of appeal would require substantial financial resources to cover the expenses of judicial infrastructure. This is especially challenging given the global technological advancements and the information revolution affecting all sectors, including the justice sector, which is experiencing modernization (MOUASSA, "The Conceptual Framework and Scope of Electronic Notification).

_ **Lack of Qualified Judges:** There is a shortage of highly skilled judges in administrative matters, particularly considering the required expertise and specialization. The Algerian legislator, under Organic Law No. 22-10 and Law No. 22-13 on the Civil and Administrative Procedure Code, requires at least the rank of Counselor at the State Council to head the administrative courts of appeal and the State Attorney, and the rank of Counselor for judges. Achieving this is

challenging, especially given the issue of insufficient specialization among administrative judges.

3-2 The Judicial Jurisdiction of Administrative Courts of Appeal:

3-2-1 The General Jurisdiction of Administrative Courts of Appeal:

- The Subject-Matter Jurisdiction of Administrative Courts of Appeal:

Article 900 bis, Paragraph 3 of the Civil and Administrative Procedure Code From this article, it is clear that the Algerian legislator has assigned to the Administrative Courts of Appeal the authority to adjudicate initially (i.e., as a first instance) disputes involving central state authorities such as ministries, national public institutions like the Constitutional Council, the National People's Assembly, the Council of the Nation, and the Economic and Social Council (MOUASSA, New Developments in the New Civil and Administrative Procedure Law - Law No. 22-13 dated July 12, 2022, P12), as well as national organizations like the **National Bar Association, the National Notaries Association, and the National Bailiffs Association** (Council of State Decision, dated June 24, 2002, Case between (Ministry of Justice) and (National Chamber of Bailiffs, P171).

This jurisdiction covers cases of annulment directed against individual and regulatory decisions or challenges to the legality of decisions issued by the aforementioned bodies, as well as cases concerning interpretation.

Recently introduced by the Algerian legislator is the exclusion of the Administrative Courts of Appeal from adjudicating full jurisdiction cases, which must be brought before the Administrative Courts even if they involve entities such as ministries or public institutions, as evident from Article 804 of the same law. In addition, the Administrative Courts of Appeal are entrusted with hearing appeals against judgments and orders issued by Administrative Courts, along with cases assigned to them by specific provisions, according to Article 900 bis, Paragraphs 1 and 2.

In conclusion, one of the significant advantages of the legal reforms adopted by the Algerian legislator in implementing the principles of dual judicial jurisdiction and two-tier litigation in administrative matters is the restoration of the State Council's role through the establishment of Administrative Courts of Appeal. This reform has positively addressed the legal issue concerning the change in the legal nature of the State Council, as reflected in Article 179 of the 2020 Constitutional Amendment, which positions it as the body overseeing the administrative judicial entities alongside the Supreme Court as the highest body in the ordinary judicial hierarchy.

By implication, during the period from 1996 to 2020 (FASSI, FATIMA EL ZAHRA- ADMINISTRATIVE COURTS OF APPEAL IN ALGERIA- foundations and effects- JOURNAL OF COMPARATIVE LEGAL STUDIES - 2023 ,P 318), the absence of administrative appeal courts was notable. This, in our view, was due to a lack of human and material resources. Therefore, assigning the jurisdiction to review appeals against judgments and orders issued by administrative courts reduces the status of the Council of State, which is originally responsible for examining cassation appeals as a body that assesses the actions of administrative judicial bodies and unifies judicial interpretation, similar to the

Supreme Court in ordinary justice. Among the serious issues that have affected the Council of State is its shift from a judge of law to a judge of facts, which contradicts the provisions of Article 152 of the 1996 Constitution that established the Council of State as a supreme judicial body exercising a constitutional function, primarily in reviewing and interpreting administrative law (Boudiaf AMAR , THE ORGANIC STANDARD AND ITS LEGAL PROBLEMS IN LIGHT OF THE CIVIL AND ADMINISTRATIVE PROCEDURES LAW, JOURNAL OF THE STATE COUNCIL, 2012 ,P36).

Consequently, this has led to the complication of procedures before it, consuming time and effort, which has negatively impacted the rights of litigants.

- Regional Jurisdiction of Administrative Courts of Appeal:

By examining the newly introduced provisions regarding administrative appeal courts, specifically Articles 900 bis to 900 bis 8 of Law No. 22-13, which contains the Civil and Administrative Procedures Code, it becomes clear that the Algerian legislator has overlooked the inclusion of a provision regarding regional jurisdiction. Moreover, it has not referred to the provisions of Articles 803, which refer us to the application of Articles 37 and 38 of the previous Law No. 08-09 concerning the application of regional jurisdiction rules.

By implication, the same provisions apply before the administrative appeal courts, as demonstrated by examining Article 13(1) of the new Law No. 22-13, which states: "**The rules of both subject matter and regional jurisdiction outlined in this law, applicable to administrative judicial bodies and specialized commercial courts, shall take effect from the date of the installation of the new judicial bodies...**".

However, the Algerian legislator addressed this issue by issuing Decree No. 22-435, dated December 11, 2022 (Appendix I), which specifies the regional jurisdictional boundaries for administrative appeal courts as follows:

Administrative Court of Appeal	Administrative Courts Within Their Jurisdiction
Algiers	Algiers, Blida, Bouira, Tizi Ouzou, Djelfa, Médéa, M'Sila, Boumerdes, Tipaza, Ain Defla.
Oran	Oran Tlemcen, Tiaret, Saida, Sidi Bel Abbès, Mostaganem, Mascara, El-Bayadh, Tissemsilt, Ain Témouchent, Relizane, Chlef.
Constantine	Constantine, Oum El Bouaghi, Batna, Béjaia, Jijel, Sétif, Skikda, Annaba, Guelma, Bordj Bou Arreridj, El Tarf, Souk Ahras, Mila, Tébessa, Khenchla.
Ouargla	Ouargla, Ghardaïa, Laghouat, El Oued, Biskra, Ouled Djellal, Illizi, Tougourt, Djanet, El M" Ghair, El Menia.
Tamanrasset	Tamanrasset, Ain Salah, In Guezzam.
Béchar	Béchar, Adrar, Tindouf, Naâma, Timimoun, Bordj Badji Mokhtar, Béni Abbès

Regarding the nature of jurisdiction, according to Article 900 bis 4 of Law No. 22-13 mentioned earlier, the same provisions of Article 807 of Law No. 08-09, on the Civil and Administrative Procedures Code, apply to the administrative courts of appeal. Consequently, **the jurisdictional and territorial scope of the administrative courts of appeal is considered a matter of public policy, and the parties cannot deviate from its rules. The judge may raise it on their own at any stage of the case.** Additionally, a party may raise an objection to jurisdictional or territorial competence at any stage of the case.

3-2-2 Additional Jurisdictions of the Administrative Courts of Appeal:

The Algerian legislator, under the aforementioned Civil and Administrative Procedures Code, has specified additional jurisdictions for which the administrative courts of appeal are responsible. These include:

- Jurisdictional Conflicts

According to Article 808, paragraph 1, of Law No. 22-13, the resolution of jurisdictional conflicts **between two administrative courts within the same appellate court's jurisdiction falls under the authority of the head of the Administrative Court of Appeal.**

As per Article 813 of the same law, if an administrative court receives requests it believes fall under the jurisdiction of the Administrative Court of Appeal, the head of the administrative court must transfer the file to the Administrative Court of Appeal to decide on jurisdiction and substance if it deems the dispute falls within its scope. Alternatively, the head of the Administrative Court of Appeal can send the case back to the relevant administrative court if it determines the dispute does not fall under its jurisdiction.

Article 814 specifies that “**When the Administrative Court of Appeal decides on jurisdiction, it must refer the case to the competent administrative court. The latter cannot declare itself incompetent following this referral**”.

- Related Matters:

According to Article 809 of Law No. 22-13, if an administrative court receives requests that are **independent but related** (where some fall under its jurisdiction and others under that of the Administrative Court of Appeal), the head of the administrative court must transfer all related requests to the Administrative Court of Appeal.

If an administrative court receives **requests** related to a case within its jurisdiction and also **related to a case already before** the Administrative Court of Appeal, the head of the administrative court must refer these requests to the Administrative Court of Appeal, in accordance with **Article 809** of the law referred to above.

When **two administrative courts simultaneously receive related requests** that fall within their respective regional jurisdictions, the heads of these courts must raise the matter with the head of the Administrative Court of Appeal as outlined in **Article 811, paragraph 1**. The head of the Administrative Court of Appeal will issue an order to determine the court or courts competent to handle the **related requests**, and this order is subject to appeal before the President of the State Council.

4- Conclusion:

In summary, it can be concluded that Algerian legislators have made a significant advancement by establishing administrative courts of appeal, in accordance with Article 179 of the 2020 constitutional amendment. This development represents a crucial step in reinforcing key principles of the Algerian judicial system, particularly the principles of dual judicial review and two-tiered litigation within the framework of building a rule of law.

Results:

-Algerian legislators have introduced a groundbreaking procedural change, embodying one of the fundamental principles of the Algerian judicial system: **the dual judicial review and two-tiered litigation in administrative matters**. This is achieved through the activation of Article 179 of the constitutional amendment, which established administrative courts of appeal as the second tier of adjudication in administrative cases.

-For the first time, Algerian law (Law No. 22-13) has dedicated an entire chapter to administrative courts of appeal, titled "**Chapter One Bis,**" detailing **the procedures before these courts** (Articles 900 Bis to 900 Bis 9). This reflects a notable advancement in effectively implementing the principle of two-tiered litigation in administrative matters.

-Administrative courts of appeal play a crucial role in upholding the rule of law. They serve as a fundamental guarantee for the **principle of legality** and protect the rights and freedoms of litigants by ensuring their right to **appeal**. This reinforces the principle of two-tiered litigation in administrative cases, in parallel with ordinary judicial matters.

-The administrative courts of appeal are responsible for both initial adjudication and appellate review. They handle cases concerning the annulment, interpretation, and assessment of the legality of administrative decisions issued by central administrative authorities, national public institutions, and professional organizations. They also review appeals against decisions of administrative courts and other cases as specified by specific legal provisions.

- Despite the Algerian legislator's amendments to the Civil and Administrative Procedures Code and the issuance of several laws related primarily to organization, judicial division, and the modernization of justice, it is evident that the issue of specialization for administrative judges has not been addressed. The judicial duality requires a system of specialization for administrative judges (i.e., specialized training at the Higher Judicial School). Instead, the same administrative judges, provided they hold at least the rank of Council of State advisor, have been assigned the task of presiding over the administrative courts of appeal.

- Despite the Algerian legislator's amendments to the Civil and Administrative Procedures Code, there has been insufficient progress in actualizing the principle of judicial independence for administrative judges. In practice, the judiciary remains dependent on the executive branch, as evidenced by the lack of separation between the judiciary and the executive. Moreover, most of the judgments and decisions rendered by administrative courts are largely

dismissals, which we attribute to the lack of specialization of administrative judges in administrative matters. This issue persists despite the new guarantees and powers granted under the Civil and Administrative Procedures Code 08-09, such as the authority to issue orders to the administration and impose coercive fines under the provisions of Articles 979, 980, and subsequent articles of the same law, given that administrative judges are tasked with protecting citizens' rights and freedoms against an administration that enjoys public authority privileges

Recommendations:

- We recommend that Algerian legislators enact a specific organic law for administrative courts of appeal to regulate their particular provisions in parallel with the Council of State and the Court of Conflict.

- In light of ongoing justice reforms and the pursuit of building a rule of law, it would be beneficial for Algerian legislators to follow the example of French legislators by separating administrative procedures from civil procedures, each having its own independent law.

- The primary jurisdiction for handling appeals related to annulments, interpretations, and assessments of the legality of decisions issued by central authorities, national public institutions, and professional organizations should be assigned to administrative courts, in accordance with Article 800 of Law No. 22-13 amending Law No. 08-09. This would allow administrative courts of appeal to focus on their appellate role, thus enhancing the Council of State's primary function alongside the Supreme Court.

- Respecting the principle of appeal in administrative matters in practice, as the final primary jurisdiction of the Council of State has been transferred to the Administrative Court of Appeal in Algeria. Consequently, the Administrative Court of Appeal now has the jurisdiction to adjudicate on appeals for annulment, interpretation, and assessment of the legality of decisions issued by central authorities, national public bodies, and national professional organizations, which are subject to appeal before the Council of State. Therefore, it is evident that **there is still an issue** concerning the current jurisdiction of the Council of State in reviewing appeals against judgments and orders issued by the Administrative Courts of Appeal as an appellate body.

- It is true that the Council of State has been liberated to perform its primary function of evaluating and unifying judicial interpretation in administrative matters and has the jurisdiction to review appeals in cassation, but not absolutely. It remains responsible for reviewing appeals against judgments and orders issued at first instance by the Administrative Courts of Appeal concerning decisions made by central authorities, national public bodies, and national professional organizations. Therefore, **the issue arises regarding the prohibition of cassation appeals against final judicial decisions issued by the Council of State in practice.** This constitutes a violation of the litigants' rights as they are deprived of exercising one of the extraordinary means of appeal, namely the cassation appeal as stipulated by the Civil and Administrative Procedures Code under Articles 956, 957, 958, and 959, which refer to the application of Article

358 of the same law. Consequently, we call on the Algerian legislator to address this issue.

- There should be a reconsideration of how lawsuits are filed and the establishment of judicial proceedings before newly created administrative judicial bodies under Law 15-03 related to modernizing justice. Current electronic litigation techniques in Algeria have more drawbacks than benefits, primarily due to issues like unstable internet connectivity.

- The lack of specialization among administrative judges remains a significant issue. Judicial duality requires a specialized training system for administrative judges. The question is whether there is a truly independent and specialized administrative judiciary. Specializing judges would effectively implement justice reforms and support the establishment of the rule of law.

- Algerian legislators should strengthen and realize the principle of judicial independence for administrative judges, as current conditions often reflect a lack of independence from the executive branch.

- Algerian legislator should enhance the guarantees of the administrative judge's independence to protect them from all forms of pressure from the administration. One of the most important guarantees should be their non-dismissal and non-transferability, as the reality shows that other guarantees established by the legislator through legal texts are often not respected by the executive authority. This is particularly important given that administrative judiciary has a supervisory role over the actions and conduct of the executive authority (administration).

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