

IMPLEMENTATION OF ADMINISTRATIVE JUDGMENTS THROUGH THE COERCIVE FINE

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Abstract

The coercive fine in the realm of administrative judgments is a compulsory measure aimed at implementing the judgment thereof. In the event of failure or refusal to implement the judgment, either in full or in part, the competent administrative court may impose a coercive fine for each day of delay in executing the judgment. If the refusal to execute persists, the judge will rule on the liquidation of the coercive fine as prescribed by law. Thus, the coercive fine in administrative judgments serves as an effective tool for the administrative judiciary to compel public administration that failed from executing the administrative judgment, to adhere to the decisions of the administrative judiciary issued in the name of the Algerian people.

Keywords: *Administrative judgment, failure of execution, coercive fine, liquidation of the coercive fine.*

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Introduction:

The enforcement of judicial judgments against public administration is not an easy matter in most legislation, as it cannot be easily accomplished. This complexity arises from the privileges held by public administration and the difficulties associated with coercively enforcing decisions against it, which means that the execution of the administrative judgment often depends on the administration's willingness. Furthermore, the situation is further complicated by the impossibility of granting judges the authority to intervene in the administration's operations or to assume its role. However, in the event of non-execution of the administrative judgment, whether in whole or in part, the administrative judiciary may order a coercive fine to compel the administration to fulfill its obligations. Accordingly, this paper addresses this issue using an analytical approach as an attempt to analyze and explain the legal texts relevant to the subject matter. The paper investigates to what extent can the coercive fine be considered a guarantee for the enforcement of administrative judgments? And to answer this question, the researcher focused on exploring the following aspects; the administrative judgment, coercive fine, compulsive implementation of administrative judgments, the liquidation case and its procedures, and adherence to the administrative judiciary judgments.

SECTION I: ADMINISTRATIVE JUDGMENTS IMPLEMENTED THROUGH A COERCIVE FINE

In this section, we will address two key points: first, the definition of administrative judicial judgments, and second, the definition of coercive fines.

First requirement: Nature of Administrative Judgments

The nature of judicial judgments includes explaining their meaning, types, and the information they contain. All these aspects are discussed as follows:

1. Definition of the Administrative judicial judgment

Among the mechanisms adopted by the Algerian legislator to achieve legal protection for individuals is the judicial judgment, which is a fundamental function of the judiciary. Despite its significant importance, the legislator did not provide a definition for it, leaving this task to legal scholars. To define administrative judicial judgments, it is necessary to first explore its meaning in the Arabic language so as to grasp its jurisprudential significance.

Linguistically, "*al-hukm*" refers to the act of judging and adjudicating on a matter. And the term "*al-hakm*," it means to restrain or prevent (Ibn Ya'qoub Al-Firuz, n.d.), it is used to describe a judge because they prevent the oppression of the wrongdoer and protect others from harm. As for the term "*al-qadaa*" (judiciary), it refers to the obligation and order, as said by Almighty: "And your Lord has decreed that you not worship except Him" (Surat Al-Isra, Ayah23). It may also mean in other contexts, determination as said by Almighty: "Then He made them seven heavens in two days and revealed to each heaven its law" (Surat Fussilat, Ayah 12).

In the Islamic law, administrative judicial judgments are defined as "any decision issued within the framework of procedural laws by a legally formed judicial body in a legal dispute brought before it, whether it pertains to the subject of the dispute, a part of it, or a related issue." (Abu Al-Wafa, 1998, P. 35) Generally, an administrative judgment is considered the outcome of a dispute reached by the administrative judge assigned to the litigation, in accordance with the stipulated legal procedures. Thus, a judicial judgment encompasses all that is issued by the judiciary, including judgments, decisions, and orders, whether concerning the main issue of the dispute, a part thereof, or a related matter. Thus, a judgment is regarded as a testament to truth and legitimacy (Bin Dho', 2021).

2. Judicial judgment; its essence and types

2.1. The essence of administrative judicial judgment

The particulars of a judicial judgment are fundamental, regardless of its type, as they provide logical coherence and aim to achieve the desired outcome of the judgment (Abdelhafidh, n.d.). These particulars impart a sense of justice to the judgments, allowing the parties involved—whether they are the litigants or those affected by the judgment—to understand the reasons upon which the administrative judge based their decision to resolve the dispute. This enables the parties to determine their stance on the judgment, whether to accept it or to challenge it.

Furthermore, these particulars facilitate for the Council of State, as the highest administrative judicial authority, to oversee the judgments rendered by administrative courts, thereby preventing the misapplication of the law by administrative judges. It is worth emphasizing that the execution of a judgment is contingent upon these legally required particulars. The absence of any crucial particular, especially a material error in its reference or a lack of clarity, can undermine the validity of the judgment for execution, which may render it completely unenforceable (Dhouadia, 2015). In this case, litigants may be burdened as they will be obligated to refile the case of the material error or omissions to the competent judicial authority, which will result in prolonging the litigation. This will undoubtedly undermine the credibility of the administrative judicial judgment and consequently subvert the judiciary status.

Based on the aforementioned explanation, we can conclude that "particulars" refers to the set of essential elements that must be included in an administrative judicial judgment document, arranged in a specific order according to the established criteria for drafting such documents, following a particular technical methodology. These elements consist of a preamble, merits, reasons for the judgment, and the signature (Ibid, P. 41).

2.1.1. The Preamble

These are the first information, included in the judgment, appearing at the beginning of the administrative judgment. They provide a brief overview of the case, aimed at highlighting its elements. Under the penalty of nullity of the judgment, this section must include the phrase "People's Democratic Republic of Algeria" followed by "In the name of the Algerian people," as stipulated in Article 275 of the Code of Civil and Administrative Procedures. This is a mandatory provision of public order; thus, it is imperative not to omit these phrases, as their content carries significant meaning, representing sovereignty that cannot be compromised, even by negligence (Slimani, n.d., P.7).

Moreover, it is essential to mention the judicial body that issued the judgment, its location, and the date of the judgment. This section should also include the names and titles of the judges who adjudicated on the case, along with the name of the public prosecutor and the name of the court clerk who was present with the panel. Finally, it should list the names and addresses of the parties involved, and in the case of legal entities, it is necessary to specify their legal nature, designation, registered office, and the title of their representative, along with the names of any lawyers or individuals who represented or assisted the parties (Article 276 of the Law N° 08/09).

2.1.2. The case merits

The case merits encompass the following:

- A summary of the stages of the case, in other words, a historical narration of the dispute, which is a necessary step because the merits of the case constitute the foundation of the judgment. The court must have a clear and accurate understanding of these merits; any error in comprehending them may lead to an incorrect application of the law.
- A summary of the parties' claims, along with their defenses, highlighting the factual evidence and legal arguments they have presented.

2.1.3. Grounding

This section involves a discussion of the case through outlining the legal grounds, and factual evidence upon which the judgment is based. This part is also referred to as the "whereas clause" (*al-haithiyat* in Arabic). These "whereas clauses" highlight the grounds on which the judge considers the parties' claims and defenses so as to adjudicate on the matter.

2.1.4. Sentencing

This is the most important part of the judicial judgment, as it reflects the conviction reached by the court in adjudicating on the case. It reveals the judge's stance on the matter, whether to reject the claims for lack of proper foundation, impose obligations, or issue other decisive judgments. And by virtue of this section, the compulsive execution is carried out. Conversely, if the parties are dissatisfied, they may challenge it. As a result, the court that issued the judgment exhausts its jurisdiction. Therefore, this is the conclusion reached by the court, and the absence of this element constitutes a fundamental defect of public order, leading to the nullification of the judgment.

The sentencing part of the judgment begins with the phrase "For these reasons," which carries significant meaning, indicating the connection between the various components of the judgment and its conclusion. This section must be clear and detailed, representing the final decision taken by the judge (Slimani, Op. Cit.).

2.2. Types of administrative judgments

Administrative judgments vary based on the criterion used for their classification:

2.2.1. Categorization of judgments in terms of the subject matter

Administrative judgments are categorized based on their subject matter into:

2.2.1.1. Judgments adjudicating on the subject matter

A judgment on the subject matter is one that decisively resolves, either in whole or in part, the subject of the dispute, a formal objection, a plea for inadmissibility, or any incidental plea. Once pronounced, this judgment has the force of *res judicata* regarding the adjudicated dispute. Indeed, according to the first paragraph of Article 296 of the Code of Civil and Administrative Procedures a judgment adjudicating on the subject matter of the case may be a judgment adjudicating on:

- The subject matter of the dispute, in whole or in part.
- A formal plea.
- A plea of inadmissibility.
- Any incidental plea.

As for the second paragraph, it stipulates that when the judgment pertains to the aforementioned matters, it acquires the force of *res judicata* upon its pronouncement concerning the settled dispute. This means that the dispute cannot be reconsidered in court and that these judgments are definitive (Sanqouqa, 2011).

2.2.1.2. Judgments issued before adjudicating on the subject matter

A judgment issued before adjudicating on the subject matter is a judgment that orders an investigation or a provisional measure; the force of *res judicata* does not apply on such a judgment and in this case, the judge does not relinquish jurisdiction over the dispute. According to Article 298 of the Code of Civil and Administrative Procedures, a judgment issued before deciding on the case is the judgment rendered as a result of preliminary investigative measures or temporary provisions. This means, a judgment aimed at initiating preliminary actions without addressing the core issue of the dispute.

An example of this would be appointing an expert to assess the validity of the parties' claims (Ibid, P. 421). These are non-definitive judgments that do not resolve the dispute nor do they result in relinquishing the judge's jurisdiction over the; therefore, they can only be appealed alongside judgments related to the subject matter. They are further divided into two types: preparatory judgments and preliminary judgments.

2.2.2. Categorization of judgments in terms of appearance of the litigants and their representatives

Judgments are categorized, based on the appearance of the litigants or their representatives, into three categories:

2.2.2.1. Judgment in presence of the parties

It is stipulated by the Code of Civil and Administrative Procedures in Articles 288 to 291 that judgments in presence of the parties are judgments issued by the first and second degrees of litigation as follows:

- 1- If the litigants appeared at the hearing in-person.
- 2- If the litigants' representatives appeared at the hearing by virtue of a special power of attorney for the purpose thereof.
- 3- Or if their lawyers appeared at the hearing or did submit written briefs, even if they did not make oral remarks.
- 4- If one of the attending litigants refuses to carry out an ordered procedure within the specified time limits, the judge shall adjudicate with a judgment in presence of the parties based on the elements of the case file (See Articles 288-291 of the Law N° 08/09).

2.2.2.2. In-absentia judgment

In absentia judgments, according to Article 292 of the Code of Civil and Administrative Procedures, are those judgments "in which the defendant, their representative, or lawyer fails to appear before the court despite proper notification". This provision ensures the defendant's right for a fair trial, as it would not be reasonable to issue

a judgment against a defendant who was not personally notified (Hadjadj, n.d.).

2.2.2.3. Defaults judgments

Article 293 of the Code of Civil and Administrative Procedures raises the possibility that the defendant fails to appear after the trial despite being personally summoned without submitting any brief to notify the court, by themselves or by dint of their lawyer, or representative, even after the prolongations granted to them. In such cases, the judge is required to render a judgment considered as in-person. The Algerian legislator has effectively addressed this situation, which has caused many legal issues, leading to the loss of litigants' rights regarding the legal characterization of these judgments.

2.2.3. Categorization of judgments in terms of judicial protection

Judgments are classified in terms of legal protection into:

2.2.3.1. Declaratory judgment

The declaratory judgment also referred to as the adjudicative judgment, aims to manifest a right. It determines the existence or non-existence of a right, legal status, or legal fact, without obligating the party against whom it is issued to perform a specific action. Examples include a judgment affirming the right to citizenship or a judgment on the validity or invalidity of contracts. The goal of this type of judgment is to achieve legal certainty regarding the existence or non-existence of a right.

2.2.3.1. Constitutive judgment

A constitutive judgment is a judgment that establishes new legal statuses that did not previously exist or amends or terminates existing ones without compulsion. An example of this is "pre-emption judgments," which transfer property ownership to the pre-emptor.

Thus, these judgments create new objective constitutive rights and provide legal protection immediately upon issuance, without the need to be enforced. In cases where a legal status is amended, the judgment may modify a contractual obligation that circumstances have prevented its execution. Conversely, a judgment that nullifies an entire contract terminates an existing legal status (Slimani, Op. Cit.).

2.2.3.2. Mandatory judgments

Mandatory judgments are judgments that mandate the party against whom they are issued to perform a specific action in favor of the prevailing party, and they are enforceable through coercive measures. They provide legal protection through enforcement procedures. A mandatory judgment can be either explicit or implicit, and its content may involve either the delivery of something, the performance of an act, or the abstention from a particular action.

2.2.4. Categorization of judgments in terms of appealability

Judgments are classified based on their appealability into:

2.2.4.1. Preliminary judgments

Preliminary judgments are judgments rendered by the court of first instance of litigation and can be reviewed by appealing to the court of a second instance. This is known as the principle of "two-levels litigation," as stated in Articles 33 and 34 of the Code of Civil and Administrative Procedures.

2.2.4.2. Final judgments

Final judgments are decisions issued by the judicial councils as a second instance after appeal, as well as final preliminary judgments issued in the first and last instance that are not subject to ordinary appeal, by virtue of a specific provision. A first instance judgment becomes final once the deadlines for appeal have passed following its official notification. However, a judgment described as final may still be appealed if there is an error by the judge of the first instance, in

accordance with Articles 34 and 315 of the Code of Civil and Administrative Procedures(Ibid, P. 10)

2.2.4.3. Definitive judgment

Definitive judgments are judicial decisions that have exhausted all chances of appeal, which means that no appeals, whether ordinary or extraordinary, can be made against them. This occurs when the opposing party has been properly and officially notified, and the appeal period has passed, or because the judgment has become definitive from the time of its issuance.

Second requirement: the concept of coercive judgment

To enforce administrative judgments, the Algerian legislator introduced the coercive fine in the Code of Civil and Administrative Procedures 08/09 after lifting the prohibition on administrative courts from issuing orders to the administration.

Referring to the provisions of Articles 980 and subsequent articles of the Code of Civil and Administrative Procedures, it becomes evident that the Algerian legislator adopts the coercive fine as a guarantee against public entities and to protect their interests from the negligence and refusal of the public administration to execute administrative judgments.

1. Definition of coercive fine

The comprehensive research on this topic manifested the absence of a clear legal definition for the coercive fine, which has led some researchers to view it as a form of punishment or sanction. In light of the Algerian legislator's silence on this matter, we will rely on a doctrinal interpretation of the concept. Despite the similarities in doctrinal definitions and the convergence of most scholars on the same definition, we will present several definitions from various jurists to provide the exact meaning of the coercive fine.

The French doctrine defined the coercive fine as "a monetary amount specified for each day or month of delay imposed on the public entity debtor, which neglects or fails to execute a judgment from any judicial authority. It thus serves as a penalty for the administration's failure to comply with the pronounced judgment." (Meziani, 2022)

Al-Sinhouiri described it as: "a mechanism used by the judge to compel the debtor to fulfill their obligation within a certain timeframe. If this latter fails to fulfill that obligation within the specified period, they are required to pay a coercive fine for this delay, a fixed amount is specified for each day, week, month, or any other unit of time, until they comply with the obligation or until they permanently refrain from breaching it. Subsequently, the judge may review the accumulated coercive fines against the debtor and has the power to allocate or completely lift these fines." (Al- Sanhouiri, 2005).

Ghenai, on his part, views the coercive fine as "the court's determination of a sum of money in favor of the creditor, requested by them, which compels the party refusing to execute to pay this amount for each period of delay in fulfilling the obligation. This period may be measured in hours, days, or weeks, depending on the nature of the obligation, although judicial custom typically sets it in days. (Ghenai, 2003).

2. Characteristic of coercive fine

We can highlight the characteristics of the coercive fine compared to other compulsive methods for compelling compliance with a judgment. It is a method of execution following the issuance of a judgment and is only employed after the debtor has refused to comply voluntarily. This refusal is proven by virtue of a record drawn up by the competent authorities. The coercive fine is characterized by several features, making it a distinctive judicial system and an indirect enforcement method. We will outline these characteristics as follows:

2.1. The coercive fine is of a regulatory and threatening nature

The coercive fine is characterized by its threatening nature, as its purpose is to threaten the debtor and exert pressure on them in order to make them fulfill their contractual obligations. Thus, the amount of the coercive fine is neither a right of the creditor nor a debt owed to them. When the administrative judge determines the amount of the coercive fine, they are guided solely by the administration's capacity to resist or procrastinate in execution, in addition to achieving the objective of the coercive fine, which is to compel the administration to comply to their obligations.

The administrative judge has discretionary power in determining the amount of the coercive fine. They can set the amount as they deem appropriate, without being bound by the requests of the concerned party or the extent of the damage caused by non-compliance. Additionally, the judge has the power to increase the amount of the coercive fine if they believe that the previous amount is insufficient to compel the administration to execute. Furthermore, if it becomes evident that the imposed fine is inadequate to compel compliance, the judge may raise its value. (Merdassi, 2008) Thus, the amount of the coercive fine is not measured by the extent of the damage incurred by the creditor; it is not a compensation for harm but rather a means to exert pressure on the debtor who refuses to fulfill their obligation.

2.2. The coercive fine is estimated for each unit of time

The amount of the coercive fine is not determined arbitrarily as a lump sum; it is rather estimated for each period of delay. This means it is not a fixed amount but is calculated based on each unit of time that passes while the debtor remains unwilling to fulfill their obligation, causing the fine to increase. In this way, the essence of the threat is achieved.

2.2. The coercive fine is of temporary nature

The coercive fine is not final; it is rather subject to liquidation based on the debtor's actions. If the debtor complies and the desired outcome is achieved, this does not preclude the creditor's right to seek compensation for the delay in fulfilling the obligation and any resulting harm. If the debtor continues to refuse compliance, the court will ultimately determine the amount of compensation, in addition to settling the coercive fine. Therefore, it can be said that the coercive fine is merely a temporary measure destined to be resolved, making the judgment for the coercive fine a provisional judgment aimed at eventual resolution. (Meziani, Op. Cit.)

SECTION II: IMPLEMENTATION OF THE ADMINISTRATIVE JUDGMENT AND ITS EFFECTS

The administrative judicial judgment must involve an administration as one of its parties, according to the organic criterion, which generally defines the competence of administrative courts to hear disputes where one party is an administrative entity. As is well established, one of the conditions for an administrative judicial judgment is to acquire enforceability and that it must include an obligation, whether to perform an act, refrain from performing an act, or deliver something. Accordingly, in this section, we will address two main points: the first is the enforcement of the administrative judgment through the coercive fine, and the second is the effect of enforcing the administrative judgment through the coercive fine.

First Requirement: Implementation of Administrative Judgment through the Coercive Fine

Judgments are divided into three types: declaratory, constitutive, and mandatory. In the context of coercive fine, this latter does not apply to declaratory and constitutive judgments, as they do not relate to the nature of the coercive fine, which requires the existence of financial pressure on the debtor to fulfill their obligations. In this section, we will attempt to discuss the application of the coercive fine in terms of the judgment type as follows:

1. Implementation of Administrative Judicial Judgments bearing Annulment

The administration, akin to any other party bound by a judicial judgment, is legally mandatory to execute judicial decisions. This obligation is explicitly stated by the legislator in Article 604/1 of the Code of Civil and Administrative Procedures. In this analysis, we will focus on two primary dimensions: first, the implementation of judgments that entail the annulment of an administrative decision, and second, the enforcement of judgments that impose financial penalties. Individuals whose rights and legal statuses have been affected by administrative decisions may file annulment actions against these decisions. Such actions are brought for grounds such as lack of competence, form and procedure, cause, subject matter, and purpose, which collectively render the administrative decisions illegitimate.

The administrative judge examines these annulment actions and assesses the external grounds of illegitimacy (such as competence, form, and procedure) as well as the internal grounds (including cause, subject matter, and purpose). Based on this examination, the judge issues a judgment either affirming the validity of the administrative decision and its legality or determining that one or more of its elements are illegitimate, thereby rendering the decision invalid and subject to annulment.

In contrast to the judgment that affirms the legality of the administrative decision, the enforcement of a judgment that involves annulment raises several issues regarding the fate of the legal statuses created, modified, or annulled by that judgment. Some key considerations may also arise including how to address the legal and material effects of the annulled decision and how to balance the execution of the court's judgment with the protection of rights and statuses resulting from the annulled administrative judgment.

The implementation of such judgments necessitates the active involvement of the administrative body that has been ruled against, as it pertains to the annulment of an administrative decision—a legal act issued under the exclusive authority granted to the administration by the legislator. This exclusivity applies except in legally specified and

exhaustive cases of substitution. Consequently, the execution of annulment judgments typically falls back to the issuing administration. (Dhouadia, Op. Cit.)

2. Implementation of Administrative Judicial Judgments bearing Obligation

The mandatory judgment is one that does not conclude the dispute merely upon its pronouncement. Indeed, the prevailing party requires intervention from public authorities and the performance of material actions to restore the situation to what it was before the dispute arose. This often involves exerting pressure on the party against whom the judgment was issued through coercive fines. Therefore, the coercive fine serves as a pressure mechanism that can only be applied to mandatory judgment. And since the coercive fine exclusively applies to mandatory judgments only, this does not mean that it is applicable to all such judgments. It is rather limited to a specific type of mandatory judgments—namely, those in which the debtor is obligated to perform an act or refrain from doing it (Zbiri, n.d.). As it is the only judgment that embodies this meaning, it is uniquely subject to enforcement, either voluntarily or coercively (Abu-Al-Wafa, Op. Cit.). And given that the coercive fine serves as a means of compelling compliance with enforceable judgments, it thus functions as a method of compulsory execution for those administrative judgments that possess a mandatory nature.

Second requirement: the Impact of Implementation on Administrative Judgments

In this section, we will analyze the implications of enforcement through the action for liquidation, which may be initiated in either the ordinary administrative court or the urgent administrative court. This discussion will be structured into the following two sub-sections:

1- The Liquidation Case and its Conditions

Following the issuance of the administrative judicial judgment mandating implementation through a coercive fine, and after a period of time has passed; the entitled party may seek recourse to the administrative court once again by filing an action for the liquidation of the coercive fine before either the ordinary administrative court or the urgent administrative court.

Considering the impossibility of applying coercive measures to the assets of public entities, administrative enforcement methods do not exist. And in order to comprehend the coercive execution of the liquidation judgment, we will examine its conditions as follows:

A- The judgment must have the force of *res judicata*

For a judgment to have the force of *res judicata*, it must be either a final judgment in the first instance or a preliminary judgment that has met all conditions for ordinary and extraordinary appeals, or the appeal periods must have lapsed, rendering it final.

B- The judgment must be issued against a public entity

This condition refers to the necessity that the judgment for the liquidation of the coercive fine rendered by the judge must be issued against a public legal entity, whether the state or other regional legal entities or public institutions (Meziani, Op. Cit., P.80).

C- The amount must be specified in the liquidation judgment

The legislator requires that the amount be specified with clear precision, eliminating any possibility of ambiguity or alternative interpretation.

2. Procedures of the liquidation case

The procedures for the action for liquidation before the administrative judicial authorities, like all lawsuits filed before administrative courts, follow the same principles regarding filing the case, its progression, until the issuance of the judgment. However, it is

distinguished by two key concepts that underpin the liquidation procedures, which are as follows:

A- Settlement of the amount must be within a specified period

This means that, once all necessary conditions are confirmed, the treasurer is required to issue a payment authorization for the amount specified in the judgment within a period not exceeding three months from the announcement of the final judgment.

B- The request must be made by the prevailing party

If the amount outlined in the judgment is paid within the specified timeframe, the process moves to compulsory payment, during which the appropriate authorities are required to issue a payment order. Conversely, if they fail to do so, this constitutes an unlawful action that should be challenged through legal means.(Meziani, Op. Cit., P.81-82).

Conclusion

The refusal of public administration to execute administrative judicial judgments is a longstanding issue that has persisted over the years and remains relevant to date. In response, the Algerian legislator has sought to find solutions to compel compliance from administrative bodies. A significant provision within the Code of Civil and Administrative Procedures explicitly permits the imposition of coercive fines against the administration, highlighting a legislative effort to address this challenge. However, there is a pressing need to strengthen the legal provisions that facilitate voluntary compliance in order to help the administration avoid coercive enforcement and the imposition of coercive fines.

This research paper yielded significant findings some of which are the recognition by the Algerian legislator of the administrative judge's authority to issue orders to the administration for the protection of fundamental freedoms in the Code of Civil and Administrative Procedures. This initiative marks a significant shift, especially considering the restrictions imposed on such authority in the previous

Code of Civil Procedures and underscores the evolving role of the judiciary in safeguarding individual rights and ensuring compliance with legal standards. And in the realm of implementing administrative judicial judgments and decisions, the legislator explicitly stipulated the permissibility of imposing coercive fines and defined their applicability in Articles 980 to 986 of the Code of Civil and Administrative Procedures. This provision addresses the previous oversight regarding coercive fines in the former Code of Civil Procedures. The research also confirmed that the Algerian legislator has wisely chosen to penalize employees who refuse to execute judicial decisions, as this serves as a threat, making them worried of facing imprisonment. The notion of personal liability for employees who fail to comply represents a real guarantee for the implementation of judicial judgments that possess the force of *res judicata*.

The research also highlighted that the system established by the legislator under the Code of Civil and Administrative Procedures regarding the implementation of judicial judgments possesses the authority to compel the administration to execute judicial decisions with financial implications. This legal framework permits individuals holding judicial judgments and decisions against the administration to enforce their execution, in accordance with the necessary legal procedures.

The paper also manifested that the legislator has prohibited the seizure of public state assets while also allowing for the seizure of private state assets, as there is no explicit prohibition against such actions. This approach reflects a prudent decision by the legislator to prevent the seizure of public state assets, which are essential for the functioning of public services and the state's operational integrity.

In light of these findings, we propose the following recommendations:

- Although the legislator has addressed some issues in the Code of Civil and Administrative Procedures, several critical points have been overlooked, including the lack of provisions regarding the timeframe for notifying administrative judgments, particularly concerning the deadlines for executing annulment judgments. The existing regulations only specify the execution periods for compensation

judgments. Therefore, we hope that these gaps will be addressed in future amendments.

- It is crucial to find a solution for the non-application of Article 138 bis of the Penal Code, despite its potential to exert pressure on employees who refuse to comply. The issue at hand is that the provisions of Article 138 bis have not been widely implemented in practice, even though instances of refusal are evident and the phenomenon is widespread. This refusal has been caused by both central and local administrations, as well as various administrative bodies. Nevertheless, we have not witnessed any criminal prosecution of administrative officials at the head of a ministry, a state, or any other administrative facility for failing to execute judicial decisions and judgments. This lack of accountability undermines the legislator's intent to criminalize such behavior and to restore the authority of judicial judgments through their implementation.

- It is necessary to clearly and precisely determine the employee concerned by the implementation, as one of the reasons hindering personal accountability is the difficulty in identifying the specific employee who has engaged in the act of refusal. This refusal is not always attributable to a single employee, and the administration itself may refuse to identify the employee accountable for execution.

- For our part, we believe that coercive fines should be pronounced against the administration in the same judgment or judicial decision that either grants compensation or orders annulment. This would enhance the credibility of the fine regarding its enforcement. For instance, if the administrative judge issues a judgment to annul an administrative decision or grant compensation, it could also include a provision for a coercive fine for each day of delay in executing the annulment or compensation within the same judgment. Such an approach would alleviate the burden on the litigant, reducing the need for multiple lawsuits prior to filing a liquidation action.

- We propose the acknowledgment of the principle that private assets are subject to seizure, despite that there is currently no legal provision against this, as the restrictions mentioned by the legislator apply solely to public assets.

- We recommend establishing a specialized body within the administrative courts and the Council of State tasked with overseeing

the implementation of administrative judgments and addressing issues that hinder their execution. This body should operate under the supervision of an administrative judge and be responsible for all cases involving the enforcement of judicial decisions, including instances of administrative refusal to comply, as well as identifying the reasons behind such refusals.

- We advocate for the imposition of strict penalties on any employee who fails to implement administrative judgments and decisions, in order to restore the authority of administrative judgments against anyone who might attempt to obstruct or refuse compliance.

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Implementation of administrative judgments through the coercive fine

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