

# Distribution of jurisdiction among administrative judiciary bodies according to the latest developments in the constitutional amendment of 2020

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**Abstract---**The administrative judiciary system testified with the issuance of the 2020 Constitution, a significant structural reform that imposed the existence of new judicial bodies, represented by the creation of administrative appeal courts, thus completing the administrative judiciary pyramid similar to the ordinary judiciary. This change at the structural level required a change at the level of jurisdiction rules and at the level of procedural rules in general. Accordingly, in this study, we will focus on the rules for distributing the type and regional jurisdiction among administrative judiciary bodies after the creation of the new bodies, and the extent to which this is reflected in the evaluative jurisdiction of the Council of State, in light of what was approved by Organic Law 22-10 related to the judicial organization, Law 22-13 amending and supplementing the Code of Civil and Administrative Procedures, and Organic Law 22-11 amending and supplementing the law related to the organization, functioning and jurisdiction of the Council of State.

**Keywords---**Jurisdiction, Type, Regional, Administrative Courts, Appeal, Council of State.

## Introduction

Contemporary states seek to build institutions based on the rule of law as an expression of the state's democracy and its respect for the rights and freedoms of individuals, which can only be achieved through the existence of a judicial organization that is consistent with the developments and changes that work to establish the effectiveness and efficiency of justice. Perhaps the most important thing that

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can be observed from following the rules of judicial organization in Algeria is the extent of the changes and reforms that the justice system has experienced since independence to the present day, whether related to the structures of the ordinary and administrative judiciary on the one hand or related to the internal division at the level of the single judiciary at its various levels on the other side<sup>1</sup>. If we compare yesterday and today, we find that the judicial system in Algeria has made great strides that this study will not be able to mention, the most important of which was the transition from the system of unified judiciary applied since 1965 to the system of dual judiciary approved by the constitutional amendment of 1996.<sup>2</sup>

This change in the nature of the judicial system required the creation of new judicial bodies. A State Council was established as a body at the top of the administrative judicial bodies and evaluating their rulings<sup>3</sup>. Administrative courts were then established under Organic Law N° 98-02<sup>4</sup>, in addition to a conflict court whose mission is to resolve conflicts of jurisdiction between the ordinary and administrative judiciaries.

Thus, the reforms continued until the issuance of the constitutional amendment in 2020<sup>5</sup>, which was considered a starting point for building new institutions that crystallized in the field of administrative judiciary, representing the second degree of litigation in administrative matters, embodied in the establishment of administrative courts of appeal, pursuant to Article 179.

It is certain that the change at the structural level will be accompanied by a change at the level of the rules of jurisdiction and at the level of procedural rules in general, which justifies the legislator's amendment of most of the laws regulating administrative disputes, starting with changing the general structure of the administrative judiciary by issuing a new law for judicial organization<sup>6</sup>, and another for judicial division<sup>7</sup>, and reaching the drawing of new boundaries for the distribution of jurisdiction between the judicial bodies in their current form, through amending the Civil and Administrative Procedures<sup>8</sup> Law pursuant to Law N°22-13<sup>9</sup>, as well as Organic Law 98-01 relating to the Council of State<sup>10</sup> pursuant to Organic Law 22-11<sup>11</sup>, thus completing the pyramid of administrative judiciary similar to the ordinary judiciary in the form of a new administrative judiciary system.

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<sup>1</sup> Amar Boudiaf, *Algerian Administrative Judiciary, a descriptive, analytical, comparative study*, modified edition according to the Civil and Administrative Procedures Law, Josoor Publishing and Distribution, 2nd edition, Algeria, 2002, p. 7.

<sup>2</sup> Article 152 of the 1996 Constitution issued by Presidential Decree No. 438-96 of December 7, 1996, relating to the issuance of the text of the amendment to the Constitution approved in the referendum of November 28, 1996, O.R.G.J., N° 76, issued on December 8, 1996.

<sup>3</sup> Bouhamida Atallah, *A Brief on Administrative Justice, Organization of Work and Jurisdiction*, 2nd Edition, Dar Houma for Publishing and Distribution, Algeria, 2013, p. 52; Mohamed Saghir Baali, *The Algerian Judicial System*, Dar Al-Ulum for Publishing and Distribution, Algeria, 2009, p. 125.

<sup>4</sup> Organic Law 02-98 of May 30, 1998, relating to administrative courts, O.R.G.J., No. 37, issued on 01 June 1998 (repealed)

<sup>5</sup> Constitutional Amendment of 2020 issued by Presidential Decree No. 442-20 dated 30 December 2020, relating to the issuance of the constitutional amendment, approved in the referendum of 1 November 2020, in the Official Gazette of the People's Democratic Republic of Algeria, Official Gazette No. 82, issued on 30 December 2020

<sup>6</sup> Organic Law No. 22-10 dated 9 June 2022 relating to the judicial organization, Official Gazette No. 41, issued on 16 June 2022

<sup>7</sup> Law No. 22-07 dated 5 May 2022 including the judicial division, Official Gazette No. 32, issued on May 14, 2022

<sup>8</sup> Law No. 09-08 of February 25, 2008, containing the Code of Civil and Administrative Procedure, Official Gazette No. 21, issued on April 23, 2008.

<sup>9</sup> Law No. 13-22 of July 12, 2022, amending and supplementing Law No. 09-08 of February 25, 2008, containing the Code of Civil and Administrative Procedure, Official Gazette No. 48, issued on July 17, 2022.

<sup>10</sup> Organic Law No. 01-98 of May 30, 1998, containing the powers, organization and work of the Council of State, Official Gazette No. 01-98 of May 30, 1998, containing the powers, organization and work of the Council of State, Official Gazette No. 01-98 of May 30, 1998, amending the Code of Civil and Administrative Procedure No. 37, issued on June 1, 1998

From this standpoint, the importance of this study emerges, through which we will shed light on the rules for distributing jurisdiction among administrative judiciary bodies after the establishment of administrative courts of appeal, and the extent to which this is reflected in the evaluative jurisdiction of the Council of State, by raising the following problematic : **How did the Algerian legislator control the judicial jurisdiction among administrative judiciary bodies after the new structural procedural reform? And to what extent does this contribute to achieving judicial security for litigants and the smooth running of justice?**

To answer this problem, we decided to present the subject of the study according to a descriptive analytical approach, by analyzing the current legal texts according to which the legislator distributed the type and regional jurisdiction among administrative judiciary bodies, by adopting a plan of two sections, so that the first section addresses the rules of judicial jurisdiction of the lower administrative judicial bodies, while the second section addresses the rules of judicial jurisdiction of the Council of State.

### **Section I : Judicial Jurisdiction Rules for Lower Administrative Judicial Bodies**

The issue of the distribution of jurisdiction within the administrative judicial pyramid is of great importance in line with many issues, such as the issue of litigation at two levels, the difference in procedures related to administrative lawsuits and appeals... and since it is evident from the structural situation of the administrative judicial system that resulted from the constitutional amendment of 2020 that the administrative judiciary has completed its institutions, by entrusting the appeals judiciary in administrative matters to independent courts established for this purpose, as the new reform developed the general structure of the administrative judiciary by making it consist of three levels like the ordinary judiciary, and thus each level has become specialized in a specific field and type of cases according to what is specified by its legislative framework.

From this standpoint, and considering that the multiplicity of judicial bodies necessarily imposes on the litigant to realize and identify the judicial body legally authorized to consider his lawsuit qualitatively and regionally, the qualitative jurisdiction of the lower administrative judicial bodies (administrative courts, and administrative courts of appeal) will be addressed in succession, and then their regional jurisdiction.

#### **First requirement: Subject-matter jurisdiction**

Since the administrative judicial system has become based on two levels at its lowest level: administrative courts and administrative courts of appeal, each judicial body has become distinguished by a different area of jurisdiction in terms of its type and scope.

#### **First section: Administrative courts**

Administrative courts represent the basic structure of the administrative judicial system. The Algerian legislator addressed their subject-matter jurisdiction through the Civil and Administrative Procedures Law 08-09, amended and supplemented by Law 22-13, thus distributing their jurisdiction between Articles 800 and 801, and specifying the exception in Article 802 of the same law.

#### **1- General principle**

Administrative courts are considered to have general jurisdiction and general competence in administrative disputes, except for what the law explicitly assigns to another judicial authority.

In fact, such a situation has been in place since the issuance of Organic Law 98-02 relating to administrative courts, as its first article stipulated: “Administrative courts are established as judicial bodies of public law in administrative matters”, which means that administrative courts are specifically competent to consider every administrative dispute regardless of its parties and subject matter.

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<sup>11</sup> Organic Law No. 22-11, dated June 9, 2022, amending and supplementing Organic Law No. 98-01, dated May 30, 1998, relating to the organization, functioning and powers of the Council of State, Official Gazette No. 41, issued on June 16, 2022.

This was confirmed by the Algerian legislator in Article 800 of the Code of Civil and Administrative Procedure before the amendment, despite the difference in wording between the two texts, by adapting the text of Article 800 to administrative courts as bodies of general jurisdiction in administrative disputes, competent to adjudicate all cases in which the state, the state, the municipality, or one of the public institutions of an administrative nature is a party.

As for Amendment 22-13 related to the Code of Civil and Administrative Procedure, it expanded the general jurisdiction of administrative courts in administrative matters by introducing some amendments, adding both national public bodies and national professional organizations, although they were later excluded by referring their judicial jurisdiction to the Administrative Court of Appeal of Algiers<sup>12</sup>.

From this standpoint, it can be said that administrative courts have general jurisdiction over both administrative courts of appeal and the Council of State. This is evident from the wording of Article 801 of the amended and supplemented Code of Civil and Administrative Procedure, which makes administrative courts competent over all administrative disputes, cancellation and compensation. I have listed them on a case-by-case basis, namely:

- Cases for cancellation, interpretation and examination of the legality of decisions issued by:
  - The state and non-centralized interests of the state at the state level,
  - The municipality,
  - Regional professional organizations. It is worth noting that this case was added under the new amendment.
  - Local public institutions of an administrative nature.
- Full judicial cases.
- Cases granted to them under special texts.

## 2- Exception

If the general rule is general administrative jurisdiction in administrative disputes whenever a public legal entity is a party to the dispute in accordance with the above, then the courts have exceptions to it, such that the subject-matter jurisdiction in some disputes in which the public legal entity is a party is assigned to the following judicial authorities:

### ➤ **Courts:**

Based on the text of Article 802 of the amended and supplemented Code of Civil and Administrative Procedure, the lawsuit is brought before the ordinary courts, whether the public legal entity is the plaintiff or the defendant, in two cases:

- Road violations.
- Damages caused by a vehicle belonging to a public legal entity.

### ➤ ***Jurisdiction of the Administrative Court of Appeal of Algiers:***

Based on the text of the third paragraph of Article 900 bis<sup>13</sup>, this court has jurisdiction to rule as a first instance on lawsuits for cancellation, interpretation, and assessment of the legality of administrative decisions issued by the central administrative authorities, national public bodies, and national professional organizations.

### ➤ ***The jurisdiction of the Council of State as an exception to the general principle:***

In application of the text of Article 11 of Organic Law 98-01, amended and supplemented by Organic Law No. 22-11 relating to the Council of State, as well as Article 903 of the Code of Civil and Administrative Procedure, amended and supplemented, the Council of State is competent to adjudicate many cases granted to it by special texts, for example:

- The jurisdiction of the Council of State to adjudicate appeals against decisions issued by the Competition Council, in application of the text of Article 19 of Order 03-03 containing the Competition Law<sup>14</sup>.

<sup>12</sup> Paragraph 3 of Article 900 bis of Law No. 13-22 mentioned above.

<sup>13</sup> From Law No. 13-22 mentioned above.

<sup>14</sup> Order No. 03-03 dated July 19, 2003 containing the Competition Law, Official Gazette No. 43 issued on July 20, 2003

- Its jurisdiction to appeal decisions of the Monetary and Credit Council, in application of the text of Article 87 of Order 03-11 containing the Monetary and Credit Law<sup>15</sup>.

### **Second section: Administrative Courts of Appeal The administrative**

Courts of appeal represent the second degree of litigation in administrative matters. The Algerian legislator addressed their specific jurisdiction in Law 22-13 amending and supplementing the Code of Civil and Administrative Procedures through Article 900 bis in three paragraphs, where their jurisdiction was distributed between primary jurisdiction and appellate jurisdiction.

#### **1- The primary jurisdiction of the administrative courts of appeal**

The text of the third paragraph of Article 900 bis is as follows:

“The Administrative Court of Appeal of Algiers has jurisdiction, as a first instance, to rule on appeals for annulment, interpretation and assessment of the legality of administrative decisions issued by the central administrative authorities, national public bodies and national professional organizations.”

It is clear from this text that the Administrative Court of Appeal of Algiers has exclusive jurisdiction, at first instance, to consider appeals for annulment, interpretation and assessment of legality against decisions issued by the central administrative authorities as well as those issued by national public bodies and professional organizations.

The Council of State shall have jurisdiction to rule on appeals against decisions issued by the Administrative Court of Appeal of Algiers in this regard<sup>16</sup>.

Accordingly, the Algerian legislator made the Administrative Court of Appeal of Algeria competent – in addition to its appellate jurisdiction – initially in legality lawsuits (such as a lawsuit for abuse of authority, examination of legality, and an interpretation lawsuit), against decisions of central authorities, national public bodies, and national professional organizations, after this jurisdiction was entrusted before Amendment 22-13 to the Council of State, where the latter represented the primary and final judicial authority for these lawsuits.

If the justification for referring these disputes previously directly to the Council of State was the importance of their subject matter, which is judicial oversight of important central decisions that require high judicial qualifications and experience, which it is believed that the experience of the Council of State advisors is sufficient to achieve<sup>17</sup>, then we may ask about the reason for referring the third paragraph of Article 900 bis of Law 22-13 these disputes to the Administrative Court of Appeal of Algeria in particular? Especially since the composition of the latter is no different from the rest of the administrative courts of appeal created pursuant to Article 8 of Law 22-07, which includes the judicial division.

We believe it would have been better if the legislator had referred the initial jurisdiction to consider these disputes to the administrative courts of appeal in general, without specifically allocating it to the Algiers Court, as this would violate the principle of bringing justice closer to litigants and create a state of unequal opportunities between them.

#### **2- The appellate jurisdiction of the administrative courts of appeal**

Article 29 of Organic Law 22-10 on the judicial organization stipulates that the administrative courts of appeal are the appeal authority for rulings and orders issued by the administrative courts.

The same content was confirmed by the first paragraph of Article 900 bis of Law 22-13 amending and supplementing the Code of Civil and Administrative Procedure, which states the following: “The Administrative Court of Appeal has jurisdiction to adjudicate appeals against rulings and orders issued by the administrative courts, and has jurisdiction to adjudicate cases delegated to it by special texts.”

In application of this, all rulings issued by the administrative courts may be appealed before the administrative courts of appeal, considering that they have become the second level of litigation in the administrative judicial hierarchy, except for what is excluded by special text.

<sup>15</sup> Order No. 03-11 dated August 26, 2003 relating to cash and credit, J.G.G Issue 52 issued on August 15, 2003

<sup>16</sup> Article 902 of Law 08-09 amended and supplemented by Law 22-13 mentioned above.

<sup>17</sup> Masoud Shihoub, General Principles of Administrative Disputes, Part Two, Theory of Jurisdiction, Office of University Publications, 17, Algeria, 6th Edition, 2013, p126

This means that the administrative courts of appeal have been given the status of appeal judge with general jurisdiction after this jurisdiction had been vested for more than 20 years in the State Council. Since 1998, the State Council has been the public law judge at the appeal or second degree level, and it was competent to hear any appeal filed by the administrative courts with general jurisdiction at the first degree of litigation.

The truth is that this reform came in line with the trends and calls calling for the need to reconsider the structural status of the administrative judicial system<sup>18</sup>, by establishing independent appeal courts competent to consider appeals against rulings issued by administrative courts, in order to establish the principle of litigation at two levels in administrative matters. The latter requires that the judicial structure be composed of three levels, so that the first and second levels express the two levels of litigation, while the third level is considered a court of cassation at the level complementary to the two levels of litigation, and thus the administrative and ordinary judiciary are equal at the structural and structural level.

If this indicates anything, it indicates the legislator's desire to resolve the problems that have long resulted from the centrality of the appeal authority in administrative matters in Algeria, represented by the Council of State, such as the distance of the appeal authority from the litigants, prolonging the life of the judicial dispute, and exhausting the judges of the Council of State by pushing them to focus on the facts in a way that contradicts the Council's evaluative and interpretative role<sup>19</sup>.

It is noted from a careful reading of the text of Article 29 of Organic Law 22-10 and the texts of Law 22-13 that the legislator granted the administrative courts of appeal established under Law 22-07 a comprehensive general jurisdiction in appeals filed against rulings of administrative courts, as the Council of State, as an appeal judge, only has those exceptions specified in the legal texts.

As a result, it can be said that the administrative courts of appeal are therefore competent in all disputes that the Council of State had jurisdiction over before the amendment at the appeal level, including traditional appeals that fall within the framework of full justice such as administrative liability disputes, public procurement disputes, tax disputes, and electoral disputes<sup>20</sup>.

The jurisdiction of the administrative courts of appeal also includes appeals against rulings of administrative courts issued in appeals for abuse of power against administrative decisions, with the exception of what the law has granted to the Council of State as an appeal judge<sup>21</sup>. Provided that this is done within a period of one month, which may be reduced to 15 days for urgent orders, calculated from the date of notification of the judgment or decision, unless there are special texts, in application of the text of Article 950 of the Code of Civil and Administrative Procedures, amended and supplemented by Law 22-13.

### **Second requirement: Territorial jurisdiction**

The jurisdiction of the lower administrative judicial bodies, administrative courts or administrative courts of appeal alike, is also required to be completed by the rule of territorial jurisdiction, which means the set of legal rules that regulate the jurisdiction of judicial bodies on a regional geographical basis, whereby the case is assigned to one of the judicial bodies with the same type of jurisdiction based on its geographical location, which is expressed by the territorial jurisdiction circle.

<sup>18</sup> Ammar Boudiaf, the previous reference, p. 162; Ben Mansour Abdelkrim, Arabs of Saida, on the extent of respect for the principle of litigation on two levels in administrative matters, *Maalem Journal of Legal and Political Studies*, Tindouf University Center, Volume 5, Issue 1, 2021 P. 44; Abdel Razzaq Marbat, Reforming the Algerian Administrative Judicial System in Light of the 2020 Constitution "Challenges and Prospects", *Journal of Legal and Political Thought*, Amar Thilji University of Laghouat, Volume 6, Issue 1, 2022, p. 408

<sup>19</sup> Ammar Boudiaf, the previous reference, p. 161; Akoush Hanan, *Litigation on Two Levels in Algerian Administrative Judiciary*, Thesis 19PhD in Sciences, Public Law Specialization, University of Algiers, 2019-2020, p. 289

<sup>20</sup> A judge at two levels, subject to the final primary jurisdiction of the administrative courts, became, by virtue of Order 21-01 dated March 10, 2021, including the organic law relating to the electoral system (Official Gazette No. 17, issued on March 10, 2021), subject to appeal before the administrative courts of appeal created by the 2020 Constitution, in consecration of the principle of litigation at two levels.

<sup>21</sup> Article 902 of Law 08-09 amended and supplemented by Law 13-22, mentioned above

### First section: Administrative Courts

The territorial jurisdiction of administrative courts is determined in accordance with the Civil and Administrative Procedures Law based on the text of Article 803, which referred it to Articles 37 and 38 of the same law based on a material criterion represented by the idea of “domicile”, which is the same criterion adopted in civil matters<sup>22</sup>.

By extrapolating these texts, the territorial jurisdiction of the administrative court within whose jurisdiction the defendant’s domicile is located is assigned. If he has no known domicile, then his last domicile, or the domicile he chooses, unless the law provides otherwise. However, in the case of multiple defendants, the domicile of one of them is taken into consideration to avoid issuing multiple rulings from different courts in a single case.

In contrast to this general rule, Article 804 of the amended and supplemented Civil and Administrative Procedures Law has set a number of exceptions that were decided based on the rule of the place of activity as a basis for territorial jurisdiction instead of the rule of the defendant’s domicile.

Therefore, territorial jurisdiction shall be held obligatorily according to the text of Article 804<sup>23</sup> of the Code of Civil and Administrative Procedure for the following administrative courts:

- In the matter of taxes or fees, before the court within whose jurisdiction the place of imposition of the tax or fee is located.
- In the matter of public works, before the court within whose jurisdiction the place of execution of the works is located.
- In the matter of administrative contracts of any nature, before the court within whose jurisdiction the place of conclusion or execution of the contract is located.
- In the matter of disputes related to employees, state agents or other persons working in public administrative institutions, before the court within whose jurisdiction the place of exercising their duties is located.
- In the matter of medical services, before the court within whose jurisdiction the place of provision of services is located.
- In the matter of supplies and works or the rental of technical or industrial services, before the court within whose jurisdiction the place of conclusion of the agreement or the place of its execution is located if one of the parties resides there.
- In the matter of compensation for damage resulting from a felony, misdemeanour or negligent act, before the court within whose jurisdiction the place of occurrence of the harmful act is located.
- In the matter of problems in implementing judgments issued by administrative judicial bodies, before the head of the administrative judicial body that issued the judgment in question.

However, the administrative court with regional jurisdiction to consider original requests is also competent in additional, incidental, or counter-requests that fall within the jurisdiction of other administrative courts<sup>24</sup>, in order to preserve the unity of the court. It is also competent to consider subsidiary issues that fall within the jurisdiction of another administrative judicial body<sup>25</sup>.

It should be noted that the issue of determining the geographical scope of each administrative court was left to the organization, which is what Executive Decree 22-435 included in second Annex <sup>26</sup> relating to the territorial jurisdictions of administrative courts, which number 58 courts across the entire national territory, according to the text of Article (3) of this decree.

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<sup>22</sup> Masoud Shihoub, the previous reference, p. 121.

<sup>23</sup> Amended by Article 4 of Law No. 22-13 mentioned above.

<sup>24</sup> Amar Boudiaf, the previous reference, p. 123

<sup>25</sup> Article 805 amended by Article 4 of Law 22-13

<sup>26</sup> Executive Decree No. 435-22 dated December 11, 2022, defining the territorial jurisdictions of the administrative courts of appeal 2 and the administrative courts, O.R.G.J., No. 84, issued on December 14, 2022.

### Second section: Administrative Courts of Appeal

The number of administrative courts of appeal is determined by six (6) courts located in Algiers, Oran, Constantine, Ouargla, Tamanrasset, and Bechar, as stipulated in Article 8 of Law 22-07 containing the judicial division.

It is noted that the establishment of administrative courts of appeal came in line with the normal geographical distribution of the various regions of the country, embodying the principle of bringing justice closer to litigants.

As for the territorial jurisdiction of these courts, Article 10 of Law 22-07 referred to the task of drawing the geographical and regional features of each administrative court of appeal to the organization, which was included in Executive Decree No. 22-435 specifying the territorial jurisdictions of the administrative courts of appeal in the first appendix attached to this decree, as follows:

Administrative Court of Appeal	Administrative courts within its jurisdiction
Algiers	Algiers- Blida- Bouira- TiziOuzou- Djelfa- Medea- M'Sila- Boumerdes- Tipaza- Ain Defla
Oran	Oran- Tlemcen- Tiaret- Saïda- Sidi Bel Abbès- Mostaganem- Mascara- El Bayadh- Tissemsilt- Ain Temouchent- Relizane- Chlef.
Constantine	Constantine- Oum El Bouaghi- Batna- Bejaïa- Jijel- Setif- Skikda- Annaba- Guelma- Bordj BouArreridj- El Tarf- Souk Ah Aras- Mila- Tebessa- Khenchela.
Ouargla	Ouargla- Ghardaïa- El Oued- Biskra- OuledDjellal- Illizi- Tougourt- Djanet- El Meghair- El Menia.
Tamanrasset	Tamanrasset- In Salah- In Guezzam.
Bechar	Bechar- Adrar- Tindouf- Naama- Timimoun- BordjBadji Mokhtar- Beni Abbas.

It is noted from this appendix that the legislator has determined for each Administrative court of appeal a number of administrative courts affiliated with its jurisdiction, based on the administrative division of a single state covered by the jurisdiction of a single administrative court.

### Section II : Rules of Judicial Jurisdiction of the Council of State

The Council of State represents the highest judicial body in the administrative judicial system, as opposed to the Supreme Court in the ordinary judicial system, and in this capacity it exercises various powers as an advisory body to the central authority, in addition to its main and original role as a judicial body evaluating the work of the administrative judicial bodies adjudicating administrative matters. On this basis, the Council of State exercises its judicial function either as a judge of jurisdiction (final primary judge), an appeal judge, or a cassation judge.

#### First requirement: the primary jurisdiction of the Council of State

The new amendment to the Code of Civil and Administrative Procedure, as well as the organic law relating to the Council of State issued in 2022, have brought about a change in the rules of judicial jurisdiction of the Council of State, especially its final primary jurisdiction, as the latter is no longer competent to rule as a first and final instance on appeals for annulment, interpretation, and assessment of legitimacy, against administrative decisions issued by the central administrative authorities, national public bodies, and national professional organizations, after this jurisdiction was transferred to the Administrative Court of Appeal of Algiers, as previously indicated.



However, by examining the text of Article 11 of Organic Law 98-01, amended by Organic Law 22-11, as well as the text of Article 903 of the Code of Civil and Administrative Procedure, amended by Law No. 22-13, it is clear that the Council of State still retains its final primary jurisdiction in administrative disputes granted to it by special texts, including, for example: its jurisdiction to consider as a first and last instance judge all disputes arising from the application of the provisions of the organic law relating to political parties<sup>27</sup>, as well as its jurisdiction to adjudicate initially and finally appeals against decisions issued by independent administrative authorities, including, for example: decisions of the Postal and Communications Regulatory Authority<sup>28</sup>... This is in addition to many cases that are difficult to list in this study.

It can be said that, by virtue of the new amendment, the Algerian legislator has achieved practical steps to reduce the phenomenon of final preliminary rulings, as this jurisdiction entails a violation of the principle of two-stage litigation, one of the most important principles on which the Algerian judicial system is based.

### **Second requirement: The Council of State's evaluative jurisdiction**

As an evaluative body, the Council of State exercises its jurisdiction, either as an appeal judge or a cassation judge.

#### **First section: The Council of State as an appeal body**

Article 10 of Organic Law 22-11 relating to the Council of State stipulates that: "The Council of State is competent to adjudicate appeals against decisions issued by the Administrative Court of Appeal of the city of Algiers in cases of annulment, interpretation and assessment of the legality of administrative decisions issued by central administrative authorities, national public bodies and national professional organizations."

It corresponds to Article 902 in the amended and supplemented Code of Civil and Administrative Procedure, which appears in the same wording. Accordingly, the judges of the Council of State enjoy in this capacity all the powers of appeal judges, especially re-examining the file in terms of facts and law together.

It is noted from a careful reading of the two texts above that the Council of State's appellate jurisdiction has become restricted and limited to appeals against decisions issued by the administrative courts of appeal adjudicating cases of legality against administrative decisions issued by central administrative authorities, national public bodies and national professional organizations. This is done within two (2) months, which can be reduced to 15 days for urgent orders, effective from the date of official notification of the order, judgment or decision in question unless there are special texts, in application of the text of Article 950 of the Code of Civil and Administrative Procedure as amended and supplemented by Law 22-13.

As a result, it can be said that the Council of State has become an exceptional appeal judge in specific jurisdictions exclusively. The legislator did well to reduce the appellate jurisdiction of the Council of State, this jurisdiction that has always raised many problems, including changing the legal nature of the Council and transforming it from a court of law to a court of substance, the large number of appeals registered before this body, depriving the litigant of exercising one of the methods of appeal represented by the appeal in cassation against the decisions of the Council of State...etc.

#### **Second section: The Council of State is a cassation authority**

Concerning to the text of Article 901 of the amended and supplemented Code of Civil and Administrative Procedure, as well as Article 9 of Organic Law No. 22-11 relating to the Council of State, the Council of State decides on appeals for cassation against judgments and decisions issued finally by administrative judicial bodies and is also competent to decide on appeals for cassation granted

<sup>27</sup> For more details, see Bouhamida Atallah, the previous reference, pp. 74-75

<sup>28</sup> Law 03-2000 of August 5, 2000 relating to post and telecommunications, Official Gazette No.48, issued on August 6,2000

to it by special texts. According to the text of Article 956 of the Code of Civil and Administrative Procedure, the appeal period is two (2) months, starting from the date of official notification of the decision being appealed, unless the law provides otherwise.

It is understood from the initial reading of the text of Article 901 and Article 9 that the legislator has recognized the Council of State's authority to consider appeals for cassation against final judicial decisions and judgments in administrative matters as a general principle.

Since it is established from the judicial jurisprudence of the Council of State that it is not permissible to appeal for cassation against its final decisions<sup>29</sup>, the latter remains competent to consider appeals for cassation filed against judgments issued finally by judicial bodies affiliated with the administrative judicial system.

By linking the texts included in the new procedural and structural reform, we find that the administrative courts of appeal, according to the text of Article 29 of Organic Law 22-10 relating to the judicial organization, are appeal bodies, competent to adjudicate appeals against judgments and orders issued by administrative courts, in application of the principle of two-level litigation enshrined in the Constitution, which confirms that the administrative courts of appeal issue, as a general rule, final decisions in administrative matters.

Accordingly, the Council of State will play an important role in the field of cassation, not only with regard to final decisions issued by bodies with special jurisdiction, such as the decisions of the National Committees for Appeal in the Liberal Professions, the decisions of the Supreme Judicial Council convened as a disciplinary body, the Audit Council..., but also by virtue of its powers as a Court of Cassation with regard to the judgments of the administrative courts of appeal.

## Conclusion

At the end of this study, we conclude that the Algerian legislator has taken an important step within the framework of the policy of reforming justice and organizing the judiciary. This is evident from the amendments approved by both the constitutional founder and the legislator within the framework of reforming the administrative judicial system, specifically what relates to the creation of administrative courts of appeal, which has had a positive impact on the rules of the specific jurisdiction of the various administrative judiciary bodies, especially the Council of State, given the importance of this structural and procedural reform in activating the principle of litigation at two levels, as it is a basic guarantee that guarantees the rights and freedoms of litigants and ensures the proper administration of justice.

Subsequently, the following results were reached:

- ✓ At the level of structural organization, the general structure of the administrative judiciary has been completed, so that it has become an integrated organization with three ascending levels: administrative courts in the first degree of litigation, administrative courts of appeal created by virtue of the constitutional amendment of 2020, representing the second degree in administrative litigation, and a Council of State at the highest level as a court of cassation.
- ✓ The legislator granted the administrative courts general and absolute jurisdiction, as the latter are considered the holder of general jurisdiction in administrative disputes, taking into account the exceptions provided for by the law in this regard.
- ✓ The legislator granted the administrative courts of appeal general jurisdiction in appeals, thus overcoming many of the shortcomings and problems witnessed by the administrative judicial system since the adoption of judicial duality in 1996, which resulted in reducing the judicial burden on the Council of State.
- ✓ Regulating the territorial jurisdictions of the administrative courts by distributing them in an equal manner, and determining their jurisdiction based on the administrative division of the single state covered by the jurisdiction of a single administrative court.
- ✓ Reviewing the rules of the specific jurisdiction of the Council of State, by exempting it from some jurisdictions and reducing others, by stipulating that its original jurisdiction is a judicial body for

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<sup>29</sup> Saeed Bouali, *Administrative Disputes under Algerian Law*, Dar Belqis, 2014, p. 53

cassation in administrative matters, and that its exceptional jurisdiction is an appeal body, a body that decides initially and finally in some administrative disputes.

Based on what has been reached, some proposals can be presented as follows:

- ✓ The need to enact more detailed independent legislation for the provisions regulating the controls of the jurisdiction of the administrative courts of appeal, similar to Organic Law 98-01 relating to the Council of State and Organic Law 98-02 relating to the repealed administrative courts, especially since the provisions contained in both Organic Law 22-10 and Law 22-13 relating to the administrative courts of appeal were brief and concise.
- ✓ The need to review the jurisdiction granted to the Council of State as a competent judge (final primary) granted to it under the special texts, and as an appeal body, which enables it to devote itself to its jurisprudential role as a body evaluating the work of the administrative judicial bodies through its jurisdiction as a cassation judge.

### **Bibliography List:**

#### **A- Books:**

1. Bouhmida Atallah, *Al-Wajeez fi al-Qada'i al-Idariyya*, Organizing Work and Jurisdiction, Dar Huma for Publishing and Distribution, Algeria, 2nd edition, 2013.
2. Amar Boudiaf, *Administrative Judiciary in Algeria, a Descriptive Analytical Comparative Study (Adjusted Edition According to the Civil and Administrative Procedures Law 2008)*, 2nd edition, Jusoor for Publishing and Distribution, Algeria, 2008.
3. Saeed Bouali, *Administrative Disputes under Algerian Law*, Dar Belqis, 2014.
4. Mohamed Al-Sagheer Baali, *The Algerian Judicial System*, Dar Al-Ulum for Publishing and Distribution, Algeria, 2009.
5. Masoud Shihoub, *General Principles of Administrative Disputes, Part Two, Theory of Jurisdiction*, 6th edition, Office of University Publications, Algeria, 2013.

#### **B- Journal Articles:**

1. Ben Mansour Abdel Karim, Arabs of Saida, On the Extent of Respect for the Principle of Litigation on Two degrees in administrative subjects, *Maalem Journal of Legal and Political Studies*, Tindouf University Center, Volume 5, Issue 1, 2021, pp. 27-47.
2. Abdel Razzaq Marabet, Reforming the Algerian Administrative Judicial System in Light of the 2020 Constitution "Challenges and Prospects", *Journal of Legal and Political Thought*, Amar Telidji University of Laghouat, Volume 6, Issue 1, 2022, pp. 400-410.

#### **C- Theses:**

1. Akoush Hanan, *Litigation at Two Levels in the Algerian Administrative Judiciary*, PhD Thesis in Sciences, Specialization in Public Law, University of Algiers 1, 2019-2020.

#### **D- Legal texts:**

1. Constitution of 1996 issued by Presidential Decree No. 96-438, dated December 7, 1996, relating to the issuance of the text of the amendment to the Constitution approved in the referendum of November 28, 1996, Official Gazette of the Algerian Republic, No. 76, issued on December 8, 1996.
2. Constitutional Amendment of 2020 issued by Presidential Decree No. 20-442 dated December 30, 2020, relating to the issuance of the constitutional amendment, approved in the referendum of November 1, 2020, in the Official Gazette of the People's Democratic Republic of Algeria, Official Gazette of the People's Democratic Republic of Algeria, Official Gazette of the People's Democratic Republic of Algeria, No. 82, issued on December 30, 2020.

3. Organic Law No. 98-01 dated May 30, 1998, containing the powers, organization and work of the Council of State, Official Gazette of the People's Democratic Republic of Algeria, No. 37, issued on June 1, 1998.
4. Organic Law No. 98-02 of May 30, 1998, relating to administrative courts, O.R.G.J., No. 37, issued on June 1, 1998.
5. Organic Law No. 22-10 of June 9, 2022, relating to judicial organization, O.R.G.J., No. 41, issued on June 16, 2022.
6. Order No. 21-01 of March 10, 2021, including the organic law relating to the electoral system, O.R.G.J., No. 17, issued on March 10, 2021.
7. Law 08-09 of February 25, 2008, including the Code of Civil and Administrative Procedure, O.R.G.J., No. 21, issued on April 23, 2022. 2008.
8. Law No. 22-07 of May 5, 2022, including the judicial division, Official Gazette No. 32, issued on May 14, 2022.
9. Law No. 22-13 of July 12, 2022, amending and supplementing Law No. 08-09 of February 25, 2008, including the Code of Civil and Administrative Procedure, Official Gazette No. 48, issued on July 17, 2022.
10. Executive Decree No. 22-435 of December 11, 2022, defining the territorial jurisdictions of the administrative courts of appeal and the administrative courts, Official Gazette No. 84, issued on December 14, 2022.