

The Establishment of Administrative Courts of Appeal and Its Impact on the Restructuring of the Administrative Judicial System in Algeria

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Abstract:

This study aims to analyze the legal framework for the establishment of Administrative Courts of Appeal under the constitutional amendment of 2020 and Law No. 22-13 amending and supplementing the Code of Civil and Administrative Procedure, and to highlight its impact on the restructuring of the Algerian administrative judicial system. The reform marks a shift from a two-tier to a three-tier structure, with a focus on the redistribution of jurisdiction between these courts and the Council of State as the supreme court overseeing judicial decisions. The study concludes that this reform has succeeded in enshrining the principle of two-tier litigation and the guarantees of a fair trial by transferring the State Council's previous jurisdiction to adjudicate as a court of first and last instance to the Administrative Court of Appeal of Algiers, as a first instance subject to appeal before the State Council. This development has contributed to alleviating the workload of the State Council, thereby enabling it to focus on its essential function as a court of cassation.

Keywords : Administrative judicial system, Administrative Courts of Appeal, Council of State, Principle of double instance, Fair trial.

المخلص:

تهدف هذه الدراسة إلى تحليل الإطار القانوني لاستحداث المحاكم الإدارية للاستئناف بموجب التعديل الدستوري لسنة 2020 والقانون رقم 22-13 المعدل والمتمم لقانون الإجراءات المدنية والإدارية، وبيان أثره على إعادة هيكلة النظام القضائي الإداري الجزائري، من خلال الانتقال من بنية ثنائية إلى ثلاثية، مع التركيز على إعادة توزيع الاختصاصات بين هذه المحاكم ومجلس الدولة كجهة عليا مقومة للأعمال القضائية. وتخلص الدراسة إلى أن هذا الإصلاح نجح في تكريس مبدأ التقاضي على درجتين وضمانات المحاكمة العادلة من خلال نقل اختصاص مجلس الدولة السابق بالفصل كدرجة أولى وأخيرة، إلى المحكمة الإدارية للاستئناف للجزائر العاصمة كدرجة أولى قابلة للاستئناف أمام مجلس الدولة، مما ساهم في تخفيف العبء عن مجلس الدولة لتمكينه من التركيز على وظيفته الأساسية كجهة نقض.

الكلمات المفتاحية: النظام القضائي الإداري، المحاكم الإدارية للاستئناف، مجلس الدولة، مبدأ التقاضي على درجتين، المحاكمة العادلة.

Introduction :

The organization of the administrative judiciary constitutes one of the fundamental pillars of the rule of law and institutions, as it ensures the subjection of public administration to the principle of legality and safeguards the rights and freedoms of citizens. It plays a central role in structuring the conduct of proceedings, determining the jurisdiction of judicial bodies, and guaranteeing the proper functioning of litigation. This organization is founded on the principle of two-tier litigation, which aims to establish the necessary guarantees for a fair trial by granting litigants the opportunity to have judicial decisions reviewed and potential errors corrected at a higher level of adjudication.

The administrative judicial system in Algeria has undergone a significant transformation pursuant to the constitutional amendment of 2020 and Law No. 22-13 amending and supplementing the Code of Civil and Administrative Procedure. This reform introduced a new judicial body, namely the Administrative Courts of Appeal, marking a qualitative shift in the structure of administrative justice from a two-tier system (Administrative Courts and the Council of State) to a three-tier system.

The importance of this subject lies in examining the impact of establishing Administrative Courts of Appeal within the Algerian judicial system, particularly with respect to strengthening the principle of two-tier litigation and redistributing judicial competence among the various administrative courts, most notably the Council of State, as the supreme judicial body in administrative justice.

This study aims to analyze the legal framework surrounding the establishment of Administrative Courts of Appeal under Law No. 22-13, and to demonstrate how this reform has reshaped the overall structure of the administrative judicial system, especially concerning the jurisdiction of the Council of State as the highest administrative court. Furthermore, it seeks to assess the extent to which the reform achieves the necessary balance between the principle of two-tier litigation and the efficiency of administrative justice.

The choice of this topic is justified by the relative novelty of Law No. 22-13 in alignment with the constitutional amendment of 2020, and by the structural changes it has brought to the administrative judiciary, which raise questions regarding the redistribution of competences between the Administrative Courts of Appeal and the Council of State. It also reflects the need to study the impact of these changes on the implementation of the principle of two-tier litigation and the guarantees of a fair trial in administrative disputes.

Accordingly, this study addresses the following research question: Has the Algerian legislator, through the establishment of Administrative Courts of Appeal under Law No. 22-13, succeeded in achieving a balance between the principle of two-tier litigation and the efficiency of administrative justice, particularly with regard to the redistribution of jurisdiction between these courts and the Council of State as the supreme body overseeing administrative justice?

This research adopts the descriptive method to analyze the legal provisions governing the Administrative Courts of Appeal and the Council of State, and the analytical method to examine the impact of these reforms on the structure of the administrative judicial system and the distribution of competences among its various courts. A comparative perspective is also



employed, with particular reference to the French legal system, from which the Algerian legislator drew inspiration for the exceptional jurisdiction granted to this Courts.

In light of the above, this research is structured into two main sections:

Section I: The Legal Framework for the Establishment of Administrative Courts of Appeal.

Section II: The Impact of Establishing Administrative Courts of Appeal on the Jurisdiction of the Council of State.

Section I: The Legal Framework for the Establishment of Administrative Courts of Appeal :

The establishment of Administrative Courts of Appeal within the Algerian administrative judicial system, pursuant to the constitutional amendment of 2020 and Law No. 22-13 amending and supplementing the Code of Civil and Administrative Procedure, did not arise in a vacuum. Rather, it represents the consolidation of a set of fundamental constitutional principles which constitute the legal and philosophical foundation for this major development in the structure of the administrative judiciary.

I. The Constitutional Foundations for the Establishment of Administrative Courts of Appeal :

The creation of Administrative Courts of Appeal is grounded in constitutional principles aimed at ensuring justice and safeguarding the rights of litigants, while also taking into account the particularities of administrative litigation and the need for a careful balance between judicial efficiency and the guarantees of a fair trial.

A. Enshrining the Principle of Double Instance :

The principle of double instance constitutes one of the most important procedural principles enshrined in the Constitution, and it forms the constitutional basis for the establishment of Administrative Courts of Appeal. The constituent power obliged the legislator to guarantee this principle across all types of disputes, including administrative disputes.¹

Prior to the constitutional amendment of 2020, the situation was characterized by the absence of a constitutional guarantee for the principle of double instance except in criminal matters.² The Council of State had jurisdiction, as a first and last resort, over actions for annulment, interpretation, and assessment of legality concerning decisions issued by central administrative authorities, national public institutions, and national professional organizations.³ Litigants were thus unable to benefit from a second level of adjudication. Although this arrangement conflicted with the principle of double instance provided under Article 6 of the

¹ Article 165, para. 3, Constitutional Amendment of 2020, promulgated by Presidential Decree No. 20-442 of 15 Jumada al-Awwal 1442 (30 December 2020), Official Gazette No. 82 of 2020.

² Article 160, para. 2, Constitutional Amendment of 2016, promulgated by Law No. 16-01 of 26 Jumada al-Awwal 1437 (6 March 2016), Official Gazette No. 14 of 2016.

³ According to:

- Article 9, Organic Law No. 98-01 of 4 Safar 1419 (30 May 1998), on the powers, organization, and functioning of the Council of State, Official Gazette No. 37 of 1998.
- Article 801, Law No. 08-09 of 18 Safar 1429 (25 February 2008), containing the Code of Civil and Administrative Procedure, Official Gazette No. 21 of 2008.

Code of Civil and Administrative Procedure, it remained lawful since the same provision permitted exceptions by legislative text.

The establishment of Administrative Courts of Appeal was therefore designed to address this constitutional deficiency by redistributing jurisdiction among administrative judicial bodies. The Administrative Court of Appeal of Algiers now holds jurisdiction, at first instance, over actions for annulment, interpretation, and assessment of legality regarding decisions of central administrative authorities, national public institutions, and national professional organizations,¹ with the possibility of appealing its decisions before the Council of State acting as an appellate body.²

It should be noted that the Algerian legislator drew inspiration from the French legislator, who granted administrative courts of appeal jurisdiction not only to hear appeals against decisions of administrative tribunals but also to decide certain cases at first and last instance.³ However, the two systems diverge with respect to the constitutional treatment of this principle.

In the French system, the principle of double instance is not a constitutional principle but rather a general principle of law,⁴ from which derogation may be made by legislative or regulatory provision. This justifies conferring certain first and last instance competences upon administrative courts of appeal without raising constitutional concerns.⁵

By contrast, in the Algerian system, the principle of double instance is constitutionally enshrined, thereby compelling the legislator to respect it across all branches of law. Consequently, any competence conferred upon Administrative Courts of Appeal as courts of first instance must necessarily be accompanied by the possibility of appeal before the Council of State.

The constitutional text thus makes clear that the principle of double instance is mandatory, obliging ordinary legislation to guarantee access to a second level of adjudication in all disputes. Accordingly, whenever Administrative Courts of Appeal exercise first instance jurisdiction, their decisions must remain subject to appeal before the Council of State.

B. The Principle of Fair Trial as a Constitutional Basis for the Duality of Litigation :

The principle of fair trial likewise constitutes a constitutional foundation for the establishment of Administrative Courts of Appeal. This principle aims to guarantee respect for the rights of individuals during judicial proceedings.⁶

The fair trial principle encompasses a set of substantive and procedural safeguards that must be observed within the judicial process. Among the most important is the right to judicial

¹ Article 900 bis, para. 3, Law No. 22-13 of 13 Dhu al-Hijjah 1443 (12 July 2022), amending and supplementing Law No. 08-09, Official Gazette No. 48 of 2022.

² Article 902, *ibid*.

³ L. 211-2, Code de justice administrative, Institut Français d'Information Juridique, Ed 2025.

⁴ عبدالقادر عدّو، المنازعات الإدارية وفق قانون الإجراءات المدنية والإدارية المعدل والمتمم، د ط، النشر الجامعي الجديد، الجزائر، 2024، ص 53.

⁵ Pierre Tifine, 'Droit administratif français, Troisième Partie, Chapitre 1, Section 2, Chapitre 1 : La juridiction administrative : Revue générale du droit on line, 2020, numéro 54068 (www.revuegeneraledudroit.eu/?p=5 4068).

⁶ Article 165, para. 1, Constitutional Amendment of 2020, *op. cit*.

review of judgments and decisions.¹ The duality of litigation thus emerges as one of the key guarantees of a fair trial, offering litigants an additional opportunity for judicial review and the correction of potential errors committed at the first instance.²

In the administrative context, the fair trial principle assumes particular importance due to the inherently imbalanced relationship between individuals and public administration. Public administration enjoys broad powers and resources—legal, financial, and technical—far exceeding those of individuals. Ensuring a fair trial in administrative disputes is therefore essential to achieving a balance between individual rights and the requirements of the public interest.

Accordingly, the establishment of Administrative Courts of Appeal³ strengthens the guarantees of a fair trial by providing an additional level of judicial review, both in terms of legal interpretation and factual assessment, while ensuring the protection of the rights of defense and the provision of adequate safeguards for litigants.

II. Organization of Administrative Courts of Appeal in the Administrative Judicial System :

Administrative Courts of Appeal constitute the second level of adjudication within the administrative judicial system, subject to certain exceptions. Their organization was designed in accordance with procedures intended to enhance both the efficiency of dispute resolution and the guarantees of a fair trial.

A. The Position of Administrative Courts of Appeal within the Administrative Judicial Hierarchy :

The administrative judicial system has evolved from a two-tier structure to a three-tier structure: administrative tribunals at the base as courts of first instance, administrative courts of appeal as the second level, and the Council of State at the apex as the body responsible for overseeing the work of administrative courts.⁴ This structure is consistent with the principle of double instance.

Administrative Courts of Appeal are thus independent judicial bodies within the judiciary, occupying a higher rank than administrative tribunals but a lower rank than the Council of State. They exercise judicial oversight over administrative tribunals while themselves being subject to the review of the Council of State.

These courts help balance the distribution of judicial workload, as they are courts of fact rather than courts of law. This relieves the Council of State—which is fundamentally a court of law—of excessive caseload pressure, thereby allowing it to focus on its primary function of reviewing judicial work and ensuring the uniformity of case law.⁵

¹ مولاي جليطي قادة، مبدأ المحاكمة العادلة: إشكالية تعدد المصطلحات، مجلة القانون العام الجزائري والمقارن، المجلد الأول، العدد 2، جامعة سيدي بلعباس، الجزائر، 2015، ص 85، 87.

² عبد العزيز سي العربي، مكانة مبدأ التقاضي على درجتين في المادة الإدارية، مجلة المحلل القانوني، المجلد 5، العدد 1، جامعة البويرة، جوان 2023، ص 104، 105.

³ Article 900 bis 1, Law No. 22-13, op. cit.

⁴ Article 179, Constitutional Amendment of 2020, op. cit.

⁵ Ibid.

It is worth highlighting the special status of the Administrative Court of Appeal of Algiers, which exercises dual competence as both a court of appeal and a court of first instance.¹

B. Litigation Procedures before the Administrative Courts of Appeal:

Chapter I bis of Law No. 22-13 regulates the procedures applicable before Administrative Courts of Appeal. The legislator adopted a system of reference to the procedural rules already applicable before administrative tribunals. The number of Administrative Courts of Appeal was set at six (06): Algiers, Oran, Annaba, Constantine, Ouargla, Tamanrasset, and Béchar.²

Procedures before Administrative Courts of Appeal are characterized by the mandatory requirement of representation by counsel.³ Appeals have both a devolutive effect and a suspensive effect on the execution of the judgment under appeal,⁴ meaning that the execution of the judgment is suspended upon the filing of an appeal. This mechanism protects the rights of appellants, as administrative tribunal judgments previously enjoyed immediate enforceability, favoring the administration over the opposing party.⁵

Administrative Courts of Appeal also render judgments in collegial formation, composed of at least three judges, including a presiding judge and two associates holding the rank of councillor.⁶ Given the importance of the cases brought before them, such collegiality provides sufficient judicial safeguards, allowing for the exchange of diverse legal perspectives on the dispute, thereby enhancing the quality of judicial decisions.

Furthermore, the time limits for bringing claims before Administrative Courts of Appeal are the same as those applicable before administrative tribunals. The time limit for filing an appeal is set at two months from the date of official notification of the judgment, with the possibility of extension in exceptional circumstances provided by law, in accordance with Article 900 bis 7, which refers to Articles 829 through 832.

Section II: The Impact of the Establishment of Administrative Courts of Appeal on the Jurisdiction of the Council of State :

The dual nature of the jurisdiction exercised by the Administrative Courts of Appeal raises legal challenges related to reconciling the requirements of effective administrative justice with the constitutional guarantees of a fair trial, particularly the principle of double instance. It also directly affects the jurisdiction of the Council of State.

I. The Dual Nature of the Jurisdiction of the Administrative Courts of Appeal :

The dual nature of the jurisdiction of the Administrative Courts of Appeal is one of the most significant innovations introduced by Law No. 22-13 within the structure of the Algerian administrative judicial system. These courts exercise two distinct functions: their original jurisdiction as appellate courts, and their exceptional jurisdiction as courts of first instance.

¹ Article 900 bis, Law No. 22-13, op. cit.

² Article 8, Law No. 22-07 of 4 Shawwal 1443 (5 May 2022), on judicial division, Official Gazette No. 32 of 2022.

³ Article 900 bis 1, Law No. 22-13, op. cit.

⁴ Article 900 bis 2, ibid.

⁵ رابيس أمينة، المستجد في تنفيذ الأحكام والقرارات القضائية الإدارية في ظل القانون 13-22 المعدل والمتمم للقانون 09-08، مجلة الفكر القانوني والسياسي، المجلد 7، العدد 2، جامعة الأغواط، الجزائر، 2023، ص 898-899.

⁶ Article 900 bis 5, Law No. 22-13, op. cit.

A. Original Jurisdiction: Adjudicating Appeals :

The original jurisdiction of the Administrative Courts of Appeal constitutes the core of their legal existence, as they are primarily tasked with adjudicating appeals lodged against judgments and orders issued by the administrative courts.¹

Appeals before the Administrative Courts of Appeal are governed by the principle of devolutive effect,² which allows them to re-examine the facts and their legal characterization in order to render a new judgment, either upholding, amending, or annulling the decision under appeal. This jurisdiction is, however, confined by certain limits: it benefits only the parties to the dispute, it cannot go beyond the scope of the claims except in matters of public policy, and new claims are prohibited unless expressly authorized by law.³

Appeals are also subject to the suspensive effect. Consequently, the lodging of an appeal automatically suspends the enforcement of the contested judgment by operation of law,⁴ without the need for a specific request from the appellant or a judicial order, thereby preventing the execution of potentially unlawful or defective judgments pending appellate review.

The appellate jurisdiction of the Administrative Courts of Appeal covers all judgments and orders issued by administrative courts, regardless of the nature or subject matter of the dispute. This includes annulment, interpretation, and ultra vires actions, as well as full-jurisdiction disputes relating to compensation and administrative liability, and urgent interim orders rendered by the administrative courts.⁵

B. Exceptional Jurisdiction: Adjudication as Courts of First Instance Based on Special Provisions :

The legislature has empowered the Administrative Courts of Appeal to adjudicate certain disputes assigned to them by special provisions, though it did not precisely define the scope and nature of this jurisdiction.⁶

This jurisdiction appears designed to provide the legislature with flexibility in allocating specialized disputes to the Administrative Courts of Appeal for reasons of efficiency and expertise. Nevertheless, it raises a critical question regarding the judicial level at which these disputes are to be decided. If these courts adjudicate them as courts of first and final instance, this would contradict the constitutionally enshrined principle of double instance. Conversely, if they adjudicate them as courts of first instance subject to appeal before the Council of State, this would respect constitutional guarantees but might conflict with the legislative intent of alleviating the workload of the Council of State.

Article 944 of the amended Code of Civil and Administrative Procedure provides that: “The Council of State, when sitting as an appellate court, and the Administrative Court of Appeal, when sitting as a court of first instance or on appeal, may grant an advance payment to

¹ Article 900 bis, para. 1, *ibid*.

² Article 900 bis 2, *ibid*.

³ سمير موراود، الطعن بالاستئناف في المادة الإدارية في ظل القانون 09/08 المعدل والمتمم بالقانون 13/22 المتضمن قانون الإجراءات المدنية والإدارية، مجلة الحقوق والعلوم السياسية، المجلد 12، العدد 2، جامعة خنشلة، الجزائر، 2025، ص 441.

⁴ Article 900 bis 2, Law No. 22-13, *op. cit*.

⁵ Article 900 bis, para. 1, *ibid*.

⁶ Article 900 bis, para. 2, *ibid*.



a creditor upon request.” This provision suggests that these courts may indeed adjudicate certain disputes at first instance. However, it remains unclear whether this refers specifically to the jurisdiction of the Algiers Administrative Court of Appeal.

The exceptional jurisdiction of the Administrative Courts of Appeal impacts the overall structure of the administrative judiciary by enabling a more balanced distribution of judicial burdens across administrative courts, particularly by relieving the Council of State and allowing it to focus on its primary cassation function. This, in turn, enhances the effectiveness of the judicial system.

It also raises questions about the terminology chosen by the legislature. The designation “Administrative Courts of Appeal” implies that their function is limited to hearing appeals, whereas their actual jurisdiction is broader, encompassing first-instance adjudication in certain disputes.

C. The Special Jurisdiction of the Algiers Administrative Court of Appeal :

The Algiers Administrative Court of Appeal holds a special position among the Administrative Courts of Appeal. In addition to its appellate jurisdiction,¹ the legislature has transferred part of the Council of State’s jurisdiction as a court of first and final instance to the Algiers Court, now acting as a court of first instance subject to appeal before the Council of State. This reform aims to strengthen the principle of double instance in annulment, interpretation, and ultra vires proceedings against administrative acts issued by central administrative authorities, national public institutions, and national professional organizations.² It also relieves the Council of State, allowing it to focus on its essential role as a court of cassation.

The legislature restricted the Algiers Court’s jurisdiction as a court of first instance to annulment litigation—namely, actions for annulment, interpretation, and ultra vires review. These cases concern the legality of administrative acts, whereas full-jurisdiction disputes, such as claims for compensation, remain within the general jurisdiction of the administrative courts.

The personal scope of this jurisdiction is defined by the nature of the administrative authority that issued the challenged decision, limited to three categories: central administrative authorities, national public institutions, and national professional organizations.

From a legal perspective, one may question why the Algerian legislature distinguishes between acts issued by central authorities and those issued by local authorities in terms of the competent court for annulment actions. Are these not both administrative acts equally subject to the principle of legality? If the distinction is based on the hierarchical importance of central authorities and the broader impact of their acts, then why are full-jurisdiction disputes involving the State still assigned to administrative courts? This distinction suggests a prioritization of the

¹ The Administrative Courts under the territorial jurisdiction of the Administrative Court of Appeal of Algiers are : Algiers, Blida, Bouira, Tizi-Ouzou, Djelfa, Médéa, M’sila, Boumerdes, Tipaza, and Aïn Defla. Executive Decree No. 22-435 of 17 Jumada al-Awwal 1444 (11 December 2022), determining the territorial jurisdiction of the Administrative Courts of Appeal and Administrative Courts, Official Gazette No. 84 of 14 December 2022.

² Article 900 bis, para. 3, Law No. 22-13, op. cit.



principle of administrative legality over administrative liability, a distinction that appears unjustified, as both are constitutionally enshrined.

Accordingly, we support assigning judicial review of central administrative acts to the administrative courts. This would enable the Council of State to fully exercise its role as a court of law while guaranteeing litigants the right to cassation,¹ In following the French model on this issue, the Algerian legislature overlooked the constitutional status of the principle of double instance. Indeed, while decisions of the Algiers Administrative Court of Appeal are appealable before the Council of State, the Council's subsequent appellate rulings remain immune from cassation.

II. The Jurisdiction of the Council of State under the New Amendments :

The establishment of the Administrative Courts of Appeal by Law No. 22-13 has profoundly restructured the jurisdiction of the Council of State. The Council shifted from exercising three extensive functions to a more balanced allocation that strengthens the effectiveness of administrative justice.

A. The Council of State's Role as a Court of Cassation :

Cassation constitutes the essential and natural function of the Council of State as the highest judicial authority in the administrative judicial system. Its cassation jurisdiction extends to all final judgments and decisions rendered by administrative courts,² particularly the rulings of the Administrative Courts of Appeal when adjudicating appeals against judgments of the administrative courts. These appellate rulings are final and may only be challenged by way of cassation before the Council of State.³

Cassation also applies to decisions of specialized administrative bodies, such as disciplinary and financial judgments issued by the Court of Auditors,⁴ and disciplinary decisions of the High Council of the Judiciary.⁵

In cassation proceedings, the Council of State's review is confined to assessing compliance with the law, without revisiting the merits of the dispute. This distinguishes cassation from appellate review. Grounds for cassation include procedural irregularities, lack of jurisdiction or abuse of power, violations of domestic law or international conventions, insufficient reasoning or contradiction in the judgment, distortion of evidence, ultra petita rulings, omissions to rule on claims, and infringements of the rights of legally incapacitated persons.⁶

¹ مزوزي فارس، المحاكم الإدارية للاستئناف ودورها في إرساء دعائم القضاء الإداري في الجزائر، مجلة الفكر القانوني والسياسي، المجلد 7، العدد 2، جامعة الأغواط، الجزائر، 2023، ص 450.

² Article 901, Law No. 22-13, op. cit.

³ Article 902, ibid.

⁴ Article 110, Ordinance No. 10-02 of 16 Ramadan 1431 (26 August 2010), amending and supplementing Ordinance No. 95-20 of 19 Safar 1416 (17 July 1995) on the Court of Auditors, Official Gazette No. 50 of 2010.

⁵ Article 67, Organic Law No. 22-12 of 27 Dhu al-Qi'dah 1443 (27 June 2022), determining the modalities for the election of members of the High Council of the Judiciary and the rules governing its organization and functioning, Official Gazette No. 44 of 27 June 2022.

⁶ Articles 358 and 959, Law No. 08-09, op. cit.

B. The Council of State's Continuing Role as a Court of First Instance and as an Appellate Court :

Despite the major reforms to the administrative judicial system, the legislature preserved certain functions of the Council of State as both a court of first instance and as an appellate court, owing to the particular importance and nature of certain disputes.

For instance, appeals against disciplinary decisions rendered by the National Medical Ethics Councils are brought before the Council of State. This raises a legal question: does the Council act here as a court of first instance under a special provision, or as a court of cassation?¹ In our view, such appeals should fall within the cassation jurisdiction of the Council of State. The National Councils adjudicate these cases as appellate bodies after the Regional Councils, and they already provide adequate procedural guarantees, including the benefit of expertise in the medical field, as their members are elected specialists.² Thus, the Council of State should confine itself to ensuring compliance with procedural and legal guarantees, which aligns with its cassation function.

1.The Council of State's Jurisdiction as an Appellate Court :

The Council of State hears appeals against urgent interim orders issued by the Algiers Administrative Court of Appeal when acting as a court of first instance in annulment, interpretation, and ultra vires actions against administrative acts issued by central authorities, national public institutions, and national professional organizations.³

Its appellate jurisdiction also extends to full-jurisdiction disputes.⁴ Article 944 explicitly provides that "The Council of State, when sitting as an appellate court [...] may grant an advance payment to a creditor upon request," confirming its competence to adjudicate appeals in disputes seeking financial condemnation of the administration.

2.The Council of State's Jurisdiction as a Court of First and Final Instance :

The legislature also granted the Council of State jurisdiction to adjudicate certain disputes as a court of first and final instance under special provisions.⁵ This includes, for example, appeals against decisions rejecting candidacies for membership in the High Council of the Judiciary.^{6 7}

Conclusion :

The study of the establishment of the Administrative Courts of Appeal within the administrative judicial system, in light of the constitutional amendment of 2020 and Law No. 22-13, reveals that the Algerian legislator has largely succeeded in achieving the desired balance between the principle of double instance and the efficiency of administrative justice. This has been accomplished by restructuring the administrative judicial system and moving

¹ Article 350, para. 2, Law No. 18-11 of 18 Shawwal 1439 (2 July 2018), on health, Official Gazette No. 46 of 2018.

² Article 346, para. 2, *ibid.*

³ Article 902, Law No. 22-13, *op. cit.*

⁴ عبدالقادر عدّو، المرجع السابق، ص 62.

⁵ Article 903, Law No. 22-13, *op. cit.*

⁶ عبدالقادر عدّو، المرجع السابق، ص 65.

⁷ Article 39, Organic Law No. 22-12, *op. cit.*



from a two-tier structure to a three-tier system : Administrative Courts at the base, Administrative Courts of Appeal in the middle, and the Council of State at the top, acting as the body responsible for reviewing and harmonizing judicial decisions. Furthermore, this reform addressed the constitutional issue arising from the Council of State's competence to adjudicate certain disputes as a first and final instance by transferring part of this jurisdiction to the Administrative Court of Appeal of Algiers, with the possibility of appeal before the Council of State. This reinforces the principle of double instance and upholds the guarantees of a fair trial.

From the above, the following conclusions can be drawn :

- Law No. 22-13 successfully resolved the fundamental constitutional issue relating to the violation of the principle of double instance, by redistributing jurisdiction among the administrative judicial bodies in a way that ensures respect for this constitutional principle in all administrative disputes.
- The establishment of the Administrative Courts of Appeal improved the distribution of judicial workload, thereby allowing the Council of State to focus on its core function as a court of cassation and as the body responsible for ensuring the consistency of administrative case law, rather than being occupied with disputes at first instance or appeal level.
- This reform strengthened the guarantees of a fair trial in administrative litigation by providing an additional level of judicial review in disputes that were previously under the exclusive competence of the Council of State as a first and final instance.
- The reform raised legal issues concerning the dual nature of the jurisdiction of the Administrative Courts of Appeal and the ambiguity surrounding the exceptional jurisdiction conferred upon them by special legal provisions.
- A contradiction appeared in the legislator's logic when determining the criteria for distributing jurisdiction among administrative courts, since a distinction is made between central and local decisions in annulment actions, whereas the same criterion is not applied in full-jurisdiction disputes.

Based on these findings, the following proposals and recommendations may be advanced :

- Clarify the scope and content of the exceptional jurisdiction of the Administrative Courts of Appeal, specifying the level of jurisdiction at which these courts will adjudicate cases conferred upon them by special provisions, in order to safeguard the principle of double instance.
- Clarify the level of jurisdiction exercised by the Council of State when adjudicating appeals against the decisions of the National Councils of Medical Ethics in disciplinary matters.
- Reconsider the distribution of jurisdiction among administrative courts, particularly with respect to the distinction between the judicial review of the legality of central and local decisions.
- Establish an initial training program for judges in administrative law that takes into account the specificities of administrative disputes.
- Ensure coordination between the reform of the Administrative Courts of Appeal and other reforms within the justice system, particularly those concerning digitalization and the simplification of procedures.

References :

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- Constitutional Amendment of 2020, promulgated by Presidential Decree No. 20-442 of 15 Jumada al-Awwal 1442 (December 30, 2020), Official Gazette No. 82 of 2020.
- Organic Law No. 98-01 of 4 Safar 1419 (May 30, 1998), on the powers, organization, and functioning of the Council of State, Official Gazette No. 37 of 1998.
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