

DEVELOPMENTS IN URGENT ADMINISTRATIVE JUSTICE IN ALGERIA PURSUANT TO LAW NO. 22-13 AMENDING LAW NO. 09-08 CONTAINING THE CODE OF CIVIL AND ADMINISTRATIVE PROCEDURE

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Abstract

This study examines recent legislative reforms concerning the powers of the administrative summary (urgent) judge, particularly under Law No. 22-13 amending and supplementing the Code of Civil and Administrative Procedure.

The study aims to demonstrate the qualitative shift in the powers granted to urgent judicial proceedings to protect rights and freedoms and ensure the effectiveness of procedures in the face of arbitrary administrative decisions. To this end, the legislator has reinforced the urgent judge's role by accelerating urgent judicial protection measures, thereby strengthening the rule of law and boosting confidence in the judicial system. The study also clarifies ambiguity relating to subject-matter jurisdiction and explicitly assigns to the urgent judge requests for the suspension of administrative decisions.

Furthermore, it examines the innovative mechanisms granted to the urgent judge, such as the 'from hour to hour' procedure and the imposition of coercive fines to compel the administration to implement judicial decisions. It also looks at the establishment of a two-tier system of adjudication before the newly created administrative appellate courts.

The study concludes with a summary of the key findings and major developments.

Expansion of discretionary authority: The most recent amendment grants the urgent judge the power to rule on applications to suspend the implementation of administrative decisions with distinctive flexibility. This recognises a broad authority to assess substantive conditions without limiting them to exclusive, closed categories.

Overcoming classic constraints: The powers of the urgent judge under Law No. 22-13 extend to the adoption of necessary measures, moving beyond the historical restriction of the 'no interference with the merits (substance) of the right' requirement.

Addressing acts of material interference: By aligning with the French legislator on the protection of fundamental freedoms, the Algerian legislator grants the administrative judiciary jurisdiction to rule on cases of material interference by the administration against the right to property or fundamental freedoms. Litigants can access this through applications for suspension or urgent measures deemed necessary.

Development of interim conservatory urgency: Interim (conservatory) urgency is a complementary mechanism to the suspension of the decision's operation and urgent protection relating to freedoms. The Algerian legislature has kept pace with French developments by gradually dispensing, firstly, with the requirement of non-interference with public order, and, secondly, with the requirement of non-interference with the merits of the right, in order to ensure greater effectiveness and speed.

Keywords: administrative summary judge; Law No. 22-13; urgent orders; suspension of an administrative decision; material interference; urgency in matters involving fundamental freedoms; interim conservatory measures; administrative appellate courts.

Introduction

The legislator subjects the actions of the administration to judicial review based on the constitutional principle of legality. Consequently, any citizen who is harmed by the administration's actions, whether lawful or financial, has the right to bring the administration before the administrative judiciary in accordance with specific procedures.

Such circumstances may jeopardise rights and cause irreparable harm. Furthermore, the administration may execute its decisions before legal proceedings are concluded. This led the Algerian legislator to establish urgent judicial procedures in addition to ordinary ones. These are

organised in Book Four, entitled 'The Procedures Followed before Administrative Judicial Bodies', within Chapter Three, entitled 'Urgency', under the Code of Civil and Administrative Procedure (Law No. 08-09), as amended by Law No. 22-13.

The subject of urgent administrative justice is of significant importance, as it was created to protect litigants by providing rapid provisional measures until the judge decides on the case. The need for urgency has become pressing, given the extent to which the administration intervenes in various aspects of life. Accordingly, the legislator adopted urgent administrative procedures, which offer many advantages¹, including:

- It alleviates the burden on litigants in terms of time, effort and costs, particularly when the administration has erred in cases of abuse of power, encroachment or seizure. These circumstances may discourage the right-holder from filing an action on the merits, while ensuring prompt judicial protection.

It ensures the proper functioning of the judicial service by relieving the heavy workload of judges hearing cases on the merits due to the large number of cases that consume significant time and effort.

Despite the guarantees provided by this type of justice to protect litigants against the administration and ensure balance and preserve the essence of the right, certain gaps remained. The Algerian legislator attempted to address these through successive amendments. On the basis of the foregoing, we raise the following research question:

Has the Algerian legislator succeeded in strengthening the powers of the urgent administrative judge in light of Law No. 22-13 amending Law No. 08-09?

Answering this research question requires a combination of approaches and tools, including:

The descriptive approach, which is used to describe the characteristics of urgent administrative justice and analyse its requirements in light of the amendments introduced by the Code of Civil and Administrative Procedure. This helps to clarify the legal reality.

The analytical approach is used to identify the features of urgent administrative justice and its distinctive nature within administrative disputes. This enabled us to determine the scope of application and diversity of systems governing its implementation. Additionally, we employed comparative analysis with the French legal system in certain areas where the analysis required it.

The study is divided into three main sections. In Section One, we examined the foundational rules of urgent administrative justice. Section Two examines the procedural regime of urgent administrative justice in Algeria. Section Three discusses the multiplicity of systems for applying urgent administrative justice in the context of immediate (forcible) urgency under the heading: 'The New Developments in the Multiplicity of Systems of Urgent Administrative Justice'.

Section One: Foundational Rules of Urgent Administrative Justice

Urgent administrative justice is a branch of administrative law. Its purpose is to protect individual rights against the administration while ensuring the effective operation of public services. This balance is achieved by adopting urgent, provisional measures in situations involving serious harm or potential risk.

First: The Development of Urgent Administrative Justice

Urgent justice emerged as a result of rapid economic and commercial development, as well as changing patterns of life². Ordinary judicial remedies were no longer effective enough at protecting rights and interests. The legislator therefore established exceptional procedural rules outside the scope of ordinary adjudication to protect provisional and urgent rights pending resolution of the underlying dispute.

Urgent administrative justice was thus created. It has sparked considerable debate ever since its inception in France during the nineteenth century.

¹ Hocine Feriha, 'Administrative Urgency in Judgments of Algerian Administrative Courts', *MajallatIdārah* (Journal of Administration), Vol. 13, No. 2, Algiers, p. 12.

² Seddik Touzti, *Civil and Administrative Procedure Law in Accordance with the Most Recent Amendments under Law 22/13, in the Light of Jurisprudence and the Supreme Court, Part One* (Statement of Claim/Judgments), Dār Lāima Publishing and Distribution House, Algiers, 2024, p. 110.

The Algerian legislator adopted the French system of urgent justice, which remained in force even after independence, under Law No. 62/157 issued on 31/12/1962. This law extended the application of the French provisions until the issuance of the first Code of Civil Procedure in 1966, pursuant to Order No. 66/154.

During this period, the legislator granted the ordinary courts (the courts of the merits and the courts of urgent relief) jurisdiction over administrative matters, including issuing urgent orders, staying the execution of an administrative decision, interpreting it, and awarding compensation³. However, competence was soon progressively transferred to the administrative judiciary through explicit legal texts.

The Code of Civil Procedure was criticised for urgent justice because the legislator limited itself to allocating only a small number of provisions to urgent proceedings (both ordinary and administrative). This resulted in a legal vacuum and reduced the powers of the urgent judge. As urgent proceedings became more common, the need for clear and precise rules became evident. Therefore, Law No. 08/09 of 25 February 2008 was enacted. This organised urgent action and expanded the powers of the urgent judge, particularly with respect to suspending the enforcement of administrative decisions and safeguarding fundamental freedoms — unlike the previous situation under the repealed Code of Civil Procedure (Order No. 66/154).

The new Code brought about a radical transformation in urgent administrative justice. The procedures reached the highest level of urgency. This phase is characterised by various forms of urgency, such as urgency relating to the execution of administrative decisions, urgency aimed at safeguarding public freedoms and precautionary urgency.

The Algerian legislator was influenced by the French urgent justice system in terms of the variety of procedural regimes, the conduct of proceedings and the expansion of the powers of the urgent administrative judge. Nevertheless, there are provisions within Algerian law that differ somewhat from their French counterparts.

Second: the concept of urgent administrative justice

In order to determine the concept of urgent administrative justice, it is necessary to define it and identify its characteristics.

A) Doctrinal and jurisprudential definition

The Algerian legislator did not provide a definition of urgent justice nor a clear and precise criterion to identify urgency and necessity in a given case⁴. Consequently, the judge has considerable discretion in making this assessment. The judge therefore determines and evaluates this element in each case according to its particular factual and legal circumstances.

The legislator limited itself to referring to the conditions of urgency and the cases to which they apply under Article ... of Law No. 08-09, as amended by Law No. 22-13⁵.

All doctrinal definitions emphasise that urgent justice is a provisional, exceptional procedure. Its primary objective is to protect rights, provided that genuine urgency exists and the right's essence is unaffected, while awaiting a decision by the court hearing the case on the dispute's merits⁶.

Regarding jurisprudence's contribution to attempts to define urgent justice, the definition developed in Egyptian⁷ administrative law suggests that the challenged decision must produce results that would

³- Abdelkader Edou, 'What's New in Administrative Urgency Jurisprudence', *Journal of Law and Society*, Vol. 1, No. 1, Algiers, 2013, p. 90.

⁴- Article 918 of Law 08-09, as amended by Law 22-13, provides that: 'The urgent judge orders interim measures; he does not examine the merits of the right; and he rules within the shortest possible time.'

⁵- Law No. 08-09 of 25 February 2008, containing the Civil and Administrative Procedure Law (Official Gazette No. 21 dated 23 April 2008), as amended and supplemented by Law No. 22-13 of 12 July 2022 (Official Gazette No. 48 dated 17 July 2022).

⁶- Sami Ben Ferhat, *Concise Study on Urgent Proceedings Jurisprudence*, Maktab al-Jāmi' al-Ḥadīth (Modern University Office), Alexandria, Egypt, 2005, p. 13.

be difficult to remedy if execution is not stayed. This requires judicial intervention to order a stay of execution.

Therefore, Egyptian administrative jurisprudence requires the element of urgency in order to stay the execution of an administrative decision. This element is met if the decision would result in consequences that would be difficult to rectify in the future⁸.

Additionally, the French Council of State has contributed to the drafting and shaping of administrative legislation, as the French legislature, through the formulation of the new principles contained in the Law of 30 June 2000, sought to develop the system of urgency before administrative judicial bodies. This was intended to address criticisms of urgent justice, particularly its perceived ineffectiveness and slowness in resolving urgent disputes. This was intended to prevent individuals from resorting to ordinary courts in administrative matters under the pretext of material abuse (*voie de fait*)⁹.

In Algeria, reference may be made to the decision of the Supreme Court (*Cour suprême*) issued on 24 November 1992¹⁰, which reaffirmed the essential components of urgent administrative justice, particularly the element of urgency and provisional measures to prevent the loss of rights.

B) Characteristics of urgent administrative justice

The characteristics of urgent administrative justice can be derived from the preceding doctrinal and jurisprudential definitions. The most important are as follows:

Urgent administrative justice is time-sensitive (provisional).

- Urgent administrative justice exists to protect parties against the administration.
- Urgent administrative justice involves urgent measures; this feature is a natural consequence of the requirement of urgency.
- Urgent administrative justice requires speed in filing the urgent application and rendering a decision on the submitted request.

Service/notification of the urgent order in an urgent dispute may be carried out by all means and within the shortest possible timeframes.

- In administrative matters, urgent action may be permitted regardless of the requirement for prior administrative remedy, provided that the underlying action on the merits does not require it as a formal condition.

Third: controls (regulatory limits) of urgent administrative justice.

Urgent administrative justice is a branch of justice on the merits (judging the merits). Accordingly, the jurisdiction of the urgent administrative judge is linked to matters falling within the jurisdiction of the

⁷- The Egyptian Court of Cassation has defined 'urgency' as follows: "The competence of the summary (urgent) judiciary in an urgent claim is based on the existence of danger and urgency that justify its intervention to issue a temporary order intended to prevent harm to a right which, at first sight, appears to be without basis, and to avert a danger that, if left unaddressed, could become imminent." Houada Abd al-Hamid Abd al-Qawi, *Summary Jurisdiction and Its Cases*, No. 34, Part Three, Journal of the Faculty of Sharia and Law, Tanta, Egypt, 2019, pp. 420–421.

⁸- The Egyptian administrative judiciary has attempted to clarify the concept of 'urgency' by stating that: 'Administrative courts must not suspend the execution of an administrative decision except when the element of urgency exists — meaning that the administrative decision challenged for annulment entails irreparable consequences, and the situation is such that urgency must be taken into account.' Boudjadja Omar, *Competence of the Administrative Judiciary in Algeria*, PhD thesis, Mouloud Mammeri University of Tizi Ouzou, Algeria, 2011, p. 298.

⁹- M. Long, P. Weil, G. Braibant, P. Delvolvé and B. Genevois: *Major Decisions in Administrative Jurisprudence*, 17th edition, Dalloz, Paris, 2009, p. 790.

¹⁰- In the statement of reasons for the decision: 'Whereas the existence of an action pending before the court on the merits does not prevent the urgent judge from taking special procedures or precautionary measures if he fears the loss of the parties' rights in dispute, pursuant to the provisions of Article 183 of the Civil and Administrative Procedure Law.'

judge on the merits¹¹. This means that competence regarding urgent requests is attached to the underlying substantive request.

The urgent administrative judge is not required to conduct a thorough examination of the application to determine their jurisdiction. Instead, the urgent judge acts as a ‘judge of appearances’ (juged’apparence): he determines whether the administrative judicial authority is competent to hear the urgent requests.

The jurisdiction of the urgent administrative judge is determined according to that over the original dispute, whether existing — as in an application to stay execution, presupposing an annulment action or potential, as in precautionary or ‘conservative’ urgent proceedings or necessary measures.

Urgent administrative justice is provisional and time-sensitive. Its aim is to provide effective protection without prejudging or ruling on the substance of the right or examining or deciding the merits of the dispute.

Section Two: The Procedural Regime of Urgent Administrative Justice in Algeria

In general, Algerian administrative justice — and urgent administrative justice in particular — aims to strike a balance between protecting individual rights and serving the interests of the administration. This is reflected in all procedures and requirements that ensure the proper, effective and efficient operation of administrative justice.

First: Conditions for filing urgent applications before the urgent administrative judge

The conditions required for urgent applications are divided into:

- General conditions applicable to all administrative actions; and
- Special conditions specific to the urgent administrative action.

According to the following analysis.

A. General Conditions for Urgent Administrative Action

The conditions for the admissibility of urgent applications to the administrative judiciary are among the most important regulatory limits on the urgent judge’s work. As urgent justice is an exceptional judicial mechanism, it must be exercised within a precise framework to preserve individuals’ rights. Accordingly, urgent administrative actions are subject to general conditions, as are other administrative actions.

In accordance with the provisions common to all judicial bodies, particularly Article 13¹² of the Code of Civil and Administrative Procedure, an urgent action requires the claimant to have an interest. This reflects the legal principle that a claim is inadmissible unless there is a legally protected interest that already exists. Therefore, the person bringing the urgent application must have a legal interest that is expected to be realised by filing the action, regardless of the interest’s value.

As for standing/quality (standing to sue), in urgent proceedings, the scope is narrower than in proceedings on the merits. The judge dealing with the urgent case only verifies its apparent existence (*prima facie*), without examining the substance; whereas the judge dealing with the case on the merits requires a more in-depth examination to determine real standing. The action must be filed either by the holder of the right sought to be protected or by their legal representative¹³.

The Algerian legislator also distinguished between conditions for admissibility and capacity (the eligibility to carry out valid procedural acts). The former are set out in Article 13 of the Code of Civil and Administrative Procedure, while capacity is treated as a condition for the validity of procedures under Article 64. Lack of capacity results in the nullity of the procedural acts. Furthermore, capacity is considered a matter of public policy (*ordre public*), which the judge must raise *ex officio* (Article 65). Therefore, the absence of capacity does not affect the admissibility of the action, but rather leads

¹¹- Chemseddine Al-Sharif, Lectures on Administrative Urgency Jurisprudence, University of Mohamed Lamine Debaghine – Sétif 2, Algeria, 2024/2025, p. 3.

¹²- Article 13 of the amendment under Law 22-13: No person may bring an action unless they have standing and an interest, whether existing or potential, recognised by law.

¹³- Messaoud Chihoub, General Principles of Administrative Disputes (University Publications Office), Algeria, 2005, p. 272.

to the nullity of the proceedings. It is also possible to remedy procedural defects during the course of the proceedings.

B) Special conditions for urgent administrative requests

The Algerian legislator amended the special conditions for the admissibility of urgent actions through Article 918 of the amendment introduced by Law No. 22-13. Under the amended rule, urgent actions are subject to only two conditions:

- The existence of urgency; and
- No interference with the essence or origin of the right (non-impairment of the merits of the right).

B1: The requirement of urgency (element of urgency)

The legislator has not defined urgency, nor have the relevant legal texts specified its application in different contexts. The Algerian legislator has adopted a similar approach, leaving the task of determining urgency to doctrinal interpretation and judicial case law.

The legislator's failure to provide a definition of urgency is not to be criticised. In practice, it is difficult to circumscribe and estimate the state of urgency through a definition that would fit all factual situations. Such a definition could restrict the judge's¹⁴ discretionary power. For this reason, it is useful to refer to doctrinal and jurisprudential definitions in this area.

Doctrinally, urgency has been described as urgent justice in the form of a provisional measure aimed at protecting rights without affecting their essence. It is limited to taking temporary measures to preserve situations or respect apparent rights.

Doctrine has also defined urgency in relation to the real danger created by the right that is sought to be protected and preserved; a danger that must be averted quickly, at a pace that is usually incompatible with ordinary judicial procedures¹⁵.

In Egyptian law¹⁶, doctrine and jurisprudence generally define urgency as a real and imminent danger threatening the right intended to be protected, requiring rapid judicial intervention to avert that danger. This is a situation in which delay resulting from recourse to the court seised of the merits is feared. In applying this definition, courts have held that urgent cases within the competence of urgent justice are not limited, and that to identify them, the definition of urgency must be applied — a matter left to the judge's discretion¹⁷.

The element of urgency is the first and most important condition for urgent administrative proceedings to be admissible. In this respect, the administrative judge has wide-ranging discretion to accept or reject urgent requests, provided that the rejection is reasoned in accordance with Article 924(1) of Law No. 22-13. Furthermore, the judge has the power to amend urgent orders at any time if new circumstances arise that affect the element of urgency.

B2. Condition of not violating the essence of the right (non-interference):

This means that the summary judge (the judge dealing with urgent matters) is not competent to rule on issues related to the essence of the right or the subject matter of the dispute. Their decisions must be limited to urgent, time-sensitive measures that do not affect the essence of the right. In other words,

¹⁴- Some scholars define it as follows: "A ruling on disputes where loss by the passage of time is feared, by means of a provisional decision that does not affect the merits of the right. Rather, it is limited to an order requiring both parties to take temporary measures intended to preserve the existing situation, respect apparent rights or safeguard the interests of the disputing parties."

¹⁵- Al-Ghouthi Ben Milha, Summary Justice and Its Applications in the Algerian Judicial System, (Publications Office for Educational Works), Algeria, 2000, p. 7.

¹⁶- Houda Abd al-Hamid Abd al-Qawi, Summary Jurisdiction and Its Cases, No. 34, Part Three, Journal of the Faculty of Sharia and Law, Tanta, Egypt, 2019, p. 420.

¹⁷- Benha District Court, session of 24/11/1936, case no. 18-382, cited in Houda Abd al-Hamid Abd al-Qawi, previous reference, p. 420.

the urgent order must not produce any change to the original legal positions, such as amendment or removal¹⁸.

This condition arises from the temporary nature of urgent orders: the summary judge may not issue final decisions that resolve the dispute in order to preserve the competence of the judge of the merits (the trial judge).

Accordingly, administrative urgent justice has two aspects:

- an 'urgent' aspect concerning immediate emergency measures; and
- a 'temporary' aspect, namely not interfering with the essence of the right.

The judge of urgent matters does not settle the dispute definitively. They issue provisional orders until the case is presented to the judge of the merits, who will resolve the dispute. Therefore, a request is inadmissible if it affects the essence of the right¹⁹, except if it concerns a provisional measure that protects an apparent right²⁰.

Second: determining judicial competence for urgent requests

Judicial competence refers to the jurisdiction (authority) of the court to hear and decide on a case. Therefore, once he is seized, the summary judge must verify whether he has both subject-matter and territorial competence relating to urgent requests before ruling and issuing the order.

The legislator adopted the organic criterion in administrative disputes. Under this approach, competence is assigned to the administrative courts, which are considered the general jurisdiction for administrative disputes²¹. As urgent administrative justice (référéadministratif) is a branch of administrative justice, the same rules of competence apply.

A) Subject-matter competence in urgent administrative cases

The Algerian constitutional founder established two levels of jurisdiction (two instances) in the 2020 constitutional amendment, considering it to be one of the fundamental principles on which the judiciary is based. This principle was also enshrined in procedural law through the laws that define the scope of procedures before both ordinary and administrative courts, namely:

- the amended and supplementary Criminal Procedure Code, and
- the amended and supplementary Civil and Administrative Procedure Code

Based on Article 179 of the 2020²² constitutional amendment, the administrative justice bodies consist of administrative courts and administrative courts of appeal, as well as the Council of State, which constitutes and oversees these judicial bodies²³.

The Algerian legislator set out the rules of subject-matter jurisdiction in Articles 800–801 of the Civil and Administrative Procedure Code. The legislator relied on the organic criterion as the general rule and the material (substantive) criterion as the exception.

A1- Subject-matter jurisdiction of administrative courts in urgent cases

Subject-matter jurisdiction means the authority of the judicial body — whatever its level — to hear a specific type of dispute. In other words, it determines how cases are distributed among different courts based on the type of claim²⁴. It also defines the scope of cases that a particular court may hear according to the nature of the lawsuit.

¹⁸- Abd al-Fettah Mourad, *Practical Problems in Summary Jurisdiction (Establishment of Knowledge)*, Cairo, 1995, p. 90.

¹⁹- Omar Zouda, *Civil and Administrative Procedures in Light of the Opinions of Jurists and Judicial Decisions*, Dār Bilqīs, Algeria, 2023, p. 167.

²⁰- Mostafa Majdi Harja, *Rulings and Opinions on Summary Jurisdiction*, Cairo, 1992, p. 51.

²¹- This is pursuant to Article 800 of the Civil and Administrative Procedure Law, as amended by Law 22/13.

²²- Presidential Decree No. 20-442 contains the constitutional amendment of 2020 (Official Gazette No. 82).

²³- Ahcen Gherbi, 'Rules on Subject-Matter Jurisdiction of Administrative Courts under the Civil and Administrative Procedure Law, in the Light of the 2022 Amendment', *Journal of Law and Environmental Sciences*, Vol. 2, No. 3, Algeria, 2023, p. 232.

²⁴- Baryara Abd al-Rahman, 'Commentary on the Civil and Administrative Procedure Law', second revised edition, Dār Baḡdādī Publishing and Distribution House, Algeria, 2009, p. 74.

The Civil and Administrative Procedure Code distributed subject-matter jurisdiction among:

- administrative courts;
- administrative courts of appeal;
- the Council of State.

However, Article 800 of the Code was insufficient to clearly determine the jurisdiction of administrative courts, either exclusively or clearly enough. Therefore, the legislator added other areas of jurisdiction to administrative courts through Article 801 of the same code.

Accordingly, Article 801 should be understood as meaning that the administrative court has jurisdiction to hear all disputes of full jurisdiction, but does not have jurisdiction over all disputes relating to judicial actions of legality (legality/legitimacy claims)²⁵.

In light of the debate amongst administrative law professors regarding the meaning of Article 800 of Law 08–09, which they considered to be incomplete and insufficient in clarifying the jurisdiction of these courts, the legislator attempted to adjust the content of the article through the amendment of Law 13–22, while not departing from the principle relating to the criterion of judicial jurisdiction²⁶.

We observe that the Algerian legislator has moved away from their previous position. Upon reviewing the content of Article 800/1 in Law amending Law 22–13, we find that it grants administrative courts general jurisdiction in administrative disputes, except for those assigned to other judicial bodies. For this reason, disputes falling under the jurisdiction of administrative courts of appeal were excluded.

Furthermore, the second paragraph of the same article extends the jurisdiction of administrative courts to include national institutions and national professional organisations, in addition to their existing jurisdiction over disputes involving any of the following parties:

- the State, the wilaya (province), and the municipality;
- public administrative institutions.

Criticism/observation regarding the amendment

Our remark about the Algerian legislator — specifically with regard to this point — is that, on the one hand, he created administrative courts of appeal as the highest level above administrative courts, granting them jurisdiction to decide on annulment, interpretation or review of the legality of decisions issued by national bodies, whether public or professional.

However, he also granted administrative courts jurisdiction whenever one of the parties to the case is a national body or a professional organisation, applying the organic criterion²⁷.

Article 801 and the Scope of Administrative Courts

Article 801 of the Civil and Administrative Procedure Code states that administrative courts have jurisdiction to hear cases seeking annulment, interpretation or assessment/review of the legality of decisions issued by administrative authorities.

- the wilaya,
 - decentralised/undecentralised administrative offices of the state;
 - the municipality,
 - regional professional organisations; and
- Local public administrative institutions.

What is new after the amendment (22–13)?

One new point is that the Algerian legislator deleted the phrase “other municipal administrative services” from Article 801 through the amendment of Law 22–13. Some researchers argue that the

²⁵- Ahcen Gherbi, previous reference, p. 234.

²⁶- Belloul, F. (2022). Procedural Developments in Administrative Matters (Study in the Light of Law 22-13). *Journal of Legal and Social Sciences*, 7(4), p. 497.

²⁷- Article 801 of Law No. 08-09, which contains the Civil and Administrative Procedure Law and has been amended and supplemented by Law 22-13, provides in its first paragraph that: Administrative courts also have jurisdiction to rule on actions for annulment, interpretation and examination of the legality of decisions issued by the province (wilaya), non-centralised State departments at provincial level, municipalities, regional professional organisations and local public institutions of an administrative nature.

legislator acted correctly because these services are subsidiary to the municipality and do not have legal personality; therefore, the municipality represents them in court²⁸.

Urgent proceedings as a branch of the merits

Since urgent (summary) justice is a branch of substantive/merits justice, it follows the same rules of subject-matter jurisdiction. Therefore, urgent requests connected to substantive cases fall within the jurisdiction of the summary judge at the administrative court.

Individual-judge system

According to the amendment introduced in Article 917 of the Civil and Administrative Procedure Code, the president of the administrative court decides on urgent requests, reflecting the adoption of the single-judge system.

A2 Subject-matter jurisdiction of the administrative court of appeal in urgent cases

Administrative courts of appeal are courts of appeal located at the second level of Algeria's administrative judicial system. Their decisions can be challenged before the Council of State through cassation. Created by Law 22-07²⁹ on judicial organisation as administrative appellate bodies, they were established to:

- reduce the workload of the Council of State; and
- strengthen the principle of two-tier adjudication in administrative disputes.

Article 8 of this law established six administrative courts of appeal, with headquarters in:

- Algiers,
- Oran,
- Constantine,
- Ouargla,
- Tamanrasset and
- Bechar.

Administrative courts of appeal were created on the basis of Article 179 of the 2020 constitutional amendment and Organic Law 22-10³⁰ on judicial organisation. An administrative court of appeal comprises a panel of judges and court officials³¹.

Within the scope of administrative disputes, administrative courts of appeal exercise subject-matter and territorial jurisdiction, as well as having additional competencies, such as:

- resolving conflicts of jurisdiction between two administrative courts (as set out in Article 808 of the Civil and Administrative Procedure Code);
- deciding matters of relatedness/connection (as provided by Articles 810 and 811 of the amended and supplemented Civil and Administrative Procedure Code).

General rule and exceptional rule

As a general rule, administrative courts of appeal exercise appeal jurisdiction as courts of second instance. However, they may also act as courts of first instance in certain disputes, in accordance with Article 900 bis of the Civil and Administrative Procedure Code.

Urgent orders and the possibility of appeal after Law 22-13.

Following the introduction of Law 22-13, urgent disputes (or urgent orders) were added to the list of matters adjudicated at two levels. This is reflected in Article 937 of the Civil and Administrative Procedure Code.

Article 937 provides that:

²⁸- Nadia Bounaas, 'Developments in Judicial Jurisdiction in Administrative Matters According to Law 22-13 as Promulgated and Supplemented by the Civil and Administrative Procedure Law', *Journal of Legal and Political Thought*, Vol. 7, No. 2, University of Mohamed El-Sharif Messaadiya, Algeria, p. 30, 2023.

²⁹- Law 22-07 on judicial division in Algeria, Official Gazette No. 32, issued on 14 May 2022.

³⁰- Law 22-10, relating to the judicial organisation in Algeria, Official Gazette No. 41, issued on 9 July 2022.

³¹- The following are:

- 1) Administrative Court judges for appeals, pursuant to Article 30 of the Judicial Organisation Law: consisting of trial judges and state custodian judges.
- 2) Personnel of the Administrative Court for appeals: this category includes staff attached to the corps of clerks (registrars), joint services and contract-based assistants.

Orders issued by the administrative court in urgent matters can be challenged by appeal before the administrative court of appeal within 15 days from the date of official service or notification.

In this case, the administrative court of appeal must rule within a period not exceeding 10 days.

Article 936 of Law 22–13 also recognises the possibility of appealing all urgent orders, whereas the previous rule limited the right to challenge³² to what was contained in Article 920 (as introduced by Article 37 of Law 08–09).

Current appeal routes for urgent orders (Article 937 as amended).

Currently, according to the amendment to Article 937 of the Civil and Administrative Procedure Code, there are two cases for challenging urgent orders.

Case 1: Urgent orders issued by an administrative court are appealed to the administrative court of appeal within 15 days from official service or notification, and the administrative court of appeal rules within 10 days.

Case 2: Urgent orders issued by the administrative court of appeal in Algiers acting as a court of first instance are appealed to the Council of State within 15 days of official service or notification, and the Council of State rules within 15 days.

A3- Subject-matter jurisdiction of the Council of State in urgent cases

The Organic Law 22/11, as amended and supplemented by Organic Law 98/01, introduced a major reform to the Council of State's jurisdiction, as set out in Articles 9–11 (which define the Council of State's judicial competencies). Specifically:

Article 9 sets out the Council of State's original competence, namely cassation/appeal on points of law (annulment/cassation), consistent with its constitutional role under Article 179 of the 2020 constitutional amendment.

- Article 10 addresses the Council of State's competence to hear appeals relating to decisions issued by the administrative courts of appeal located in Algiers.

- Article 11 adds other competencies through special provisions, as reflected in the framework of Articles 901–902–903 in the amendment of Law 11–13.

The Council of State's competence in urgent judicial orders (after Law 22–13).

As a result of the amendment to Law 22–13, the Council of State's jurisdiction over urgent orders extends to include orders issued by the administrative court of appeal in Algiers acting as a court of first instance.

In this situation:

- an appeal to the Council of State must be filed within 15 days from the date of official service or notification.

- the Council of State must rule within a period not exceeding 15 days.

Changes to appeal time limits under Article 938 (Law 22–13):

It is also important to note that Algerian legislation introduced a significant amendment to the time limits for appeals under Article 938 through Law 22–13. According to the new rule, when an appeal is filed against an order issued under Article 924 of the amended Civil and Administrative Procedure Code (as amended by Law 22–13), the Council of State must decide on the appeal within one month.

The reason given is that the urgent request was either:

- rejected because it lacked the element of urgency; or
- found to be unfounded.

However, in the standard case referred to in your text, the Council of State rules within no more than 15 days.

Guarantee: Appeal has a suspensive effect

Among the guarantees intended to protect litigants under Law 22–13 is the fact that an appeal has a suspensive effect: it transfers the dispute and stops the enforcement of the judgment (i.e. it acts as a stay of execution).

B. Territorial jurisdiction in urgent administrative cases

³²- Article 36 of Law 08-09 (Civil and Administrative Procedure Law), as amended: "Orders issued for the implementation of Articles 919, 921 and 922 mentioned above are not open to any appeal."

According to Article 803 of the amendment to the Civil and Administrative Procedure Code, the territorial jurisdiction of the administrative summary (urgent) judge is subject to the same rules that govern the territorial jurisdiction of administrative courts.

However, Article 804 of the same code defines exceptions to the assignment of territorial jurisdiction to administrative courts. For example, in matters concerning administrative contracts, jurisdiction belongs to the administrative court within whose area the contract is concluded or executed.

Territorial jurisdiction of administrative courts of appeal

Under Article 8 of the Judicial Division Law, Algeria established six administrative courts of appeal at the national level. The law also determines the territorial scope of each court's competence, which is further specified by implementing regulations.

Within this framework, Executive Decree 22-435³³ was issued to determine the area of jurisdiction of each administrative court of appeal. The number of administrative courts within each appeal district varies from one region to another.

As a result, according to the judicial division rules:

Administrative judgments and orders issued by an administrative court can only be appealed before the administrative court of appeal whose territorial jurisdiction covers that administrative court.

Third axis: Developments in the number of urgent administrative courts, particularly with regard to the separation of immediate emergency procedures under Law 08-09, as amended by Law 22-13.

In the Civil and Administrative Procedure Law, the legislature preserved the traditional applications of administrative emergency jurisdiction that had previously been established under the repealed Civil Procedure Law. However, Law 08-09 introduced several new urgent procedure systems. It also amended certain provisions via the amendment introduced by Law 22-13, following the approach of French administrative law.

Within this French legal framework, each urgent procedure has its own conditions and circumstances that differ from those of the other procedures. Consequently, it is not possible to combine two separate urgent systems within a single application.

Through analysis, we will study the systems introduced by the Algerian legislature under Law 08-09 relating to civil and administrative procedures, as amended by Law 22-13, limited to immediate emergency procedures. We will also examine the amendments the legislature made to certain provisions and how it rewrote some texts in line with the fundamental changes brought by the law.

First: Applying the urgent procedure to suspend execution of independent administrative decisions(Article 921(2) of the Algerian Civil and Administrative Procedure Code)

As a general rule, administrative decisions take effect and produce their legal consequences as soon as they are issued. Furthermore, challenging them does not suspend their execution. Consequently, applying this rule without restriction would, in most cases, render an action for annulment meaningless meaning that the judgment rendered would be purely formal with no real legal impact³⁴.

From this standpoint, the need arises to adopt the suspension of execution mechanism, which is designed to remedy, at least temporarily, any harm that may result from executing the decision and which would later be impossible to remedy.

The Algerian legislature codified the action for suspension of execution under Law 08-09, providing more detailed provisions than those contained in the repealed Civil Procedure Code. This action received special attention, leading to a quantitative and qualitative enrichment of the legal provisions governing this type of claim. Some commentators considered this to be influenced by French legislation — specifically Law No. 597L200³⁵.

³³- Executive Decree No. 22-435 determines the territorial jurisdiction districts (Official Gazette No. 84).

³⁴- Abd al-Ghani Bisayouni, *Suspending Execution of an Administrative Decision in the Provisions of Administrative Judiciary*, Manshaat al-Maarif, Egypt, 2006, p. 21.

³⁵-Mahfoudh Khelifi and Abd al-Halim al-Hahaha, 'Strengthening the Authority of the Urgent Judge in a Motion for Suspension of Execution of an Administrative Decision under Law 22-13', *Journal of Human Sciences*, No. 2, University of Mohamed Khayder Biskra, Algeria, 2023, p. 194.

Algerian administrative case law was influenced by what had become established in French administrative jurisprudence, particularly the idea that the condition of urgency — understood as irreparable damage — constitutes a requirement for ordering suspension of execution. This contrasts with the Algerian legislature under the former Civil Procedure law, which did not originally treat urgency as a substantive condition required to suspend the execution of an administrative decision. This discrepancy was confirmed in practice through the Council of State's decisions³⁶.

To address this, the Algerian legislature explicitly remedied the situation in Article 919 of Law No. 08-09, fully and expressly aligning its approach with that of the French legislator.

As a general rule, a request to suspend the execution of an administrative decision must be accompanied by an application to annul that decision. Unlike the previous Civil Procedure Code, Law 08-09 explicitly stipulates this requirement within its legal provisions. This condition applies to all cases of suspension of the execution of administrative decisions recognised within this law. In other words, it covers both:

- Suspension ordered by the trial court (the court on the merits), in accordance with Articles 833 to 837 and 911 and 912 of the Civil and Administrative Procedure Code; and
- Suspension ordered by the emergency judge (the urgent jurisdiction), either:
 - in the case of an immediate emergency under Article 919, or
 - in the case of an extreme emergency, when the administrative decision constitutes an abuse, takeover or administrative closure under Article 921.

The legislature distinguishes between two types of suspension action according to the nature of the court with jurisdiction³⁷. First, a suspension claim based on an order issued by the trial judge is treated as an independent claim, as stated in Article 834(1) of the Civil and Administrative Procedure Code. This removes the confusion and ambiguity that existed under the repealed Civil Procedure Code.

Secondly, there is a suspension claim based on an urgent order, which will be analysed and studied.

While the French legislature has replaced the traditional system, in which suspension of execution was within the jurisdiction of the trial judge, with a system in which suspension is handled before the administrative emergency judge, the Algerian legislature has adopted the new system without abandoning the traditional one.

Regarding Amendment No. 22-13 to Law 08-09, it is evident that it has removed much of the ambiguity surrounding the suspension of an administrative decision³⁸. This begins with Article 833, which stipulates that requests for suspension must be submitted as an independent claim, in accordance with Article 919, and referred to the administrative emergency judge's authority. Additionally, it abolished the earlier Articles 835 and 836, which were the source of uncertainty.

Thus, it appears that the Algerian legislature has aligned itself with the French approach through the amendment introduced by Law No. 22-13. Furthermore, it seems that the Algerian legislator made a wise decision in bringing the suspension of the execution of administrative decisions under the jurisdiction of the administrative emergency judge, since this judge offers greater protection for individuals' rights and freedoms due to the simplicity of the procedure and its conditions.

The Algerian legislature sets out the conditions for the jurisdiction of the administrative emergency judge to hear a claim for suspension of the execution of an administrative decision under Article 919 of Law 08-09 (Civil and Administrative Procedure Code). The following must be satisfied:

1. Urgency;
2. Non-interference with the merits of the right;
3. A fundamental condition: the claimant must have filed an annulment action in advance and it must be formally admissible.

When the Algerian legislature first granted the administrative emergency judge the authority to order the suspension of the execution of decisions in cases of immediate urgency, it required the existence

³⁶- Decision of the Council of State dated 30/04/2002, Council of State Journal, 2002, p. 225.

³⁷- Ousaid Iman, 'The New Civil and Administrative Procedure Law in the Field of Suspending the Execution of Administrative Decisions', Elys Journal for Research and Studies, Vol. 6, Special Issue, Algeria, 2021, p. 225.

³⁸- Mahfoudh Khalifi and Abd al-'Alī Ḥaḥaḥa, 'Previousreference', p. 195.

of a serious case regarding the legality of the decision. This reflects the French approach when they empowered the administrative emergency judge (*juge des référés administratifs*) to order the suspension of administrative decisions³⁹.

The 'serious case' requirement is more flexible than the 'serious grounds for annulment' required to justify setting aside the administrative decision in the main proceedings. It is sufficient for there to be uncertainty or doubt about the legality of the decision before the emergency judge for the judge to order suspension of its execution.

When defining and applying this condition, the judge must base their decision on grounds that have not been raised in the trial on the merits. Furthermore, the judge cannot base their decision on a ground derived from violating a general principle of law, nor can they create a new legal principle.

Accordingly, when the matter concerns an administrative decision — even one involving refusal — and that decision is the subject of a total or partial annulment request, the emergency judge may order the suspension of the execution of that decision or of certain effects of it, provided that the circumstances of urgency justify such an order⁴⁰.

This is possible whenever, after investigation, the judge identifies a specific ground capable of raising genuine doubts about the legality of the decision. Finally, the effect of the suspension of execution ends upon the issuance of the judgment on the merits of the annulment request⁴¹.

Examining the developments introduced in Law 08-09 on urgent administrative procedures⁴² reveals that the Algerian legislature relaxed the requirement to previously file an annulment action on the merits whenever the circumstances of urgency set out in Article 921(2) exist. This position was reaffirmed in Law 22-13. This represents a departure from the general principle set out in Article 919, as it enables the emergency judge to suspend the execution of a contested administrative decision in cases of abuse, takeover/encroachment, or administrative closure.

In this context, we can identify two situations in which the emergency judge may order the suspension of an administrative decision's execution:

1. First situation: immediate emergency. This corresponds to the original/general framework for suspension of execution⁴³.

2. Second situation: extreme emergency

This was introduced by Law 08-09 and later amended in its wording by Law 22-13. Under this framework, the legislature empowers the emergency judge to order the suspension of the contested administrative decision in cases of abuse, takeover or encroachment, or administrative closure. The judge is also empowered to put an end to the abuse — an expression introduced and clarified by the amendment of Law 22-13.

As a result, in cases involving abuse, takeover/encroachment or administrative closure, the emergency judge may suspend the execution of the contested administrative decision or stop/end the abuse without requiring an annulment action on the merits to be filed in advance.

Finally, note that takeover/encroachment differs from abuse. Takeover/encroachment concerns real estate (immovable property), whereas abuse may extend to both real and movable property⁴⁴. In cases involving unlawful takeover or encroachment or abuse affecting private ownership, the administrative emergency judge has jurisdiction to order the appropriate measure until the decision on the merits is

³⁹- Uşaydİlmān, previous reference, p. 226.

⁴⁰- Paul Cassia, 'Examination of Legality in Applications for Suspension in Urgent Proceedings and in Actions for Freedom', *Revue française de droit administratif* (RFDA), January–February 2007, No. 1, p. 47.

⁴¹- S. Deygas, 'The Law on Administrative Urgent Proceedings: An Expected and Feared Reform', *Procédures*, June 1999; p. 4.

⁴²- Amel Aicha Tammam and Abd al-'Al Ḥaḥaḥa, 'Motion to Suspend the Execution of Administrative Decisions Based on an Urgent Order under Law No. 08-09 (Civil and Administrative Procedure Law)', *Al-Mufakkir Journal*, No. 4, Algeria, 2009, p. 320.

⁴³- The legislator invoked immediate urgency in suspending execution to distinguish it from urgency relating to evidence, investigative measures, financial advances and forwarding, the conclusion of contracts and procurement, and tax matters.

⁴⁴- Auby and Drago, *Treatise on Administrative Litigation*, Paris, 1962, p. 545.

issued, and to suspend the execution of an independent administrative decision not tied to the main administrative action⁴⁵.

Second: applying urgent jurisdiction to fundamental freedoms

Jurisprudence and administrative legal scholarship have attempted to define the concept of fundamental freedoms in the context of urgent relief jurisdiction because the legislature has not provided a definition⁴⁶.

The legal scholar Louis Favoreu suggested that a freedom is 'fundamental' if it is enshrined in the constitution rather than being derived from other legal sources. However, this approach has been criticised for narrowing the concept of freedom.

Administrative urgent relief for fundamental freedoms enables claimants to request that the administrative emergency judge orders any necessary measures to protect their fundamental freedoms when they are subjected to a serious, manifest and unlawful violation by a public legal person while that person is exercising their powers⁴⁷.

The Algerian legislature grants fundamental freedoms a kind of 'priority' or special protection by enabling the interested party to stop the violation within 48 hours, as set out in Article 920 of Law 08-09 (Civil and Administrative Procedure Code). This provides strong guarantees for the protection of fundamental freedoms, particularly against abuses motivated by weak or unfounded political and security considerations⁴⁸.

The Algerian legislature requires seriousness to be established as an essential condition for the jurisdiction of the administrative emergency judge to be invoked. Nevertheless, determining when an attack on fundamental freedoms reaches the level of seriousness remains one of the main challenges, especially since the concept of freedoms varies between states and sometimes even within the same state. The absence of a comprehensive, clear and specific definition by the legislature may therefore limit recourse to urgent procedures.

In legal scholarship, it is widely accepted that not every violation of fundamental freedoms is necessarily serious. Therefore, the distinction between serious and minor violations remains at the discretion of the administrative emergency judge, provided the violation is evident.

From this perspective, a breach of fundamental freedoms — even if unlawful — does not automatically justify intervention by the emergency judge. Rather, it must be both serious and unlawful (i.e. contrary to the law and have a significant impact). The claimant must prove this unlawful excess⁴⁹; only then may the administrative emergency judge intervene to halt the administration's unlawful actions threatening a fundamental freedom.

That said, the fundamental freedoms enshrined in the Constitution and in international instruments, such as freedom of movement, freedom of expression, freedom of assembly and protection of private life, are among those that most clearly require intervention by the emergency judge.

The Algerian legislator preserved the specificity of urgent administrative jurisdiction through Amendment 22-13. This amendment provides that urgent applications aimed at taking necessary measures justified by the existence of danger are assessed by the administrative emergency judge according to the circumstances of each case.

From this, we can conclude that the 'urgency' requirement linked to violations of fundamental freedoms is more demanding than the urgency required in other situations. This is why the legislator has singled it out with special rules. In addition, the procedure is characterised by speed: the process of suspending administrative decisions affecting fundamental freedoms is marked by rapid

⁴⁵ - Charles Débbasch, *Administrative Litigation*, 2nd edition, Paris (France): Dalloz, 1978, p. 87.

⁴⁶ - For more on this subject, see: Louis Favoreu et al., *Law of Fundamental Freedoms*, 2nd ed., Paris, 2002, p. 87.

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⁴⁷ - Amia Hilali, 'The Role of Administrative Urgency Jurisprudence in Protecting Fundamental Freedoms under the Civil and Administrative Procedure Law', *Journal of Legal Studies*, Vol. 4, No. 1, Algeria, 2018, p. 163.

⁴⁸ - Adou Abdelkader, *Administrative Disputes*, Dar Houma, Algeria, 2012, p. 265.

⁴⁹ - Hocine Ben Shaykh Athmulya, 'Previous reference', p. 71.

investigation. Accordingly, the Algerian legislator — like the powers of the emergency judge in this area — limited the time for deciding such requests to a period not exceeding 48 hours, calculated from the date of filing the application, as provided in Article 920 of the Civil and Administrative Procedure Code. This clearly reflects the legislator's intent to decide these requests as quickly as possible.

Under Law 08-09, it can be seen that the legislator permitted appeals only in matters relating to urgent jurisdiction concerning fundamental freedoms, and not in relation to other kinds of urgent orders, which include cases of suspension. This confirms the particular importance that the legislator granted to this specific application. This conclusion is further supported by Amendment 22-13, which established two levels of review for all urgent orders and applications, including those relating to urgent jurisdiction concerning fundamental freedoms.

Finally, urgent jurisdiction for fundamental freedoms applies when the administration causes a harmful or dangerous situation connected to the exercise of its powers. However, if the harm results from the administration exceeding the limits of its authority, it falls outside the scope of this urgent application and is handled through other mechanisms⁵⁰, such as urgent protective measures, also known as conservative urgent measures.

Thirdly / Applying provisional emergency (protective) jurisdiction (921/1 of the Code of Administrative Procedure).

The French legislator has gradually expanded the powers of the emergency judge when applying for provisional emergency relief, also known as 'emergency in matters of necessary measures'. Initially, the emergency judge was restricted in that the measures could not affect public order or the merits of the case. Then, the restrictions relating to public order were lifted, enabling the judge to review decisions issued by administrative (regulatory) police authorities. Finally, in 2000, the restrictions preventing interference with the merits were removed. Consequently, the powers of the emergency judge in taking necessary measures broadened, without fear of infringing upon the merits⁵¹.

In Law No. 08-09 on Civil and Administrative Procedure, the Algerian legislator relied on most of the principles governing administrative emergency proceedings as they are known in French administrative jurisdiction. This is particularly evident in the area of provisional emergency (protective) relief, which plays a significant role as it is accessible to both the administration and individuals, covering broad areas such as contracts, public works, and administrative notices and documents.

Article 920 of Law No. 08-09 (2008) permitted the emergency judge to order necessary measures in cases of extreme urgency, even in the absence of a prior administrative decision. However, the text was made more comprehensive under the amendment introduced by Law No. 22-13: the emergency judge may now take necessary measures without obstructing the execution of the administrative decision, and has the power to suspend its execution or put an end to an infringement in cases specifically specified by law. Additionally, the Algerian legislator introduced the option to suspend the execution of administrative decisions in cases of infringement, administrative seizure or administrative closure.

Based on an analysis of Article 920 of Law No. 08-09 as amended and supplemented by Law No. 22-13, we note that its rules are similar to those of Article 171 of the repealed Civil Procedure Code. The former article permitted the emergency judge to take the necessary measures in urgent cases, provided that such measures did not affect public order or the original right, except in cases of infringement, seizure and administrative closure.

In this field, the Algerian legislator followed the French legislator through the following:

- Drafting Article 920 of Law No. 22-13 resembles Article L.521-3 of the French Administrative Courts Code⁵².

⁵⁰- Adou Abdelkader, *Administrative Disputes*, previous reference, p. 269.

⁵¹- Adou Abdelkader, 'Precautionary Urgency or Urgency in Matters of Essential Measures: A Comparative Study', *African Journal of Legal and Political Studies*, Ahmed Draia University, Adrar, Vol. 8, No. 2, Algeria, 2024, p. 160.

⁵²- Ibid., p. 159.

- The condition prohibiting interference with the merits (the original right) was removed.
- It enables the emergency judge to examine disputes related to public order.

The administrative emergency judge's acceptance of provisional (protective) emergency relief does not require a prior administrative decision. Provided that execution of any administrative decision is not obstructed, it is enough that the essential condition of extreme urgency is met. This differs from emergency rulings on (i) suspension of execution and (ii) fundamental freedoms, which involve different requirements. Therefore, provisional (protective) emergency relief is considered an original or independent procedure: it can be invoked without the need for a prior administrative decision or a substantive action to challenge that decision⁵³.

The condition of 'not obstructing the execution of any administrative decision' is a negative requirement. It prevents the claimant from submitting requests that would obstruct execution; otherwise, the judge will reject the request. This is because the legislator reserved such matters for:

- the emergency judge ruling on suspension of execution under Article 919 of the CAPA (Code of Civil and Administrative Procedure);
- the emergency judge ruling on fundamental freedoms under Article 920 of the CAPA. These powers are not granted to the emergency judge in provisional (protective) relief.

Under Article 921/1 of the CAPA, the legislator did not require that there be no serious dispute. However, administrative courts in both France and Algeria have adopted this condition. Thus, the provisional emergency judge must at least examine the dispute raised by the defendant.

Under provisional emergency relief, the legislator empowered the emergency judge to take all necessary measures aimed at ensuring the protection of rights. 'Necessary measures' refer to various conservative (protective) procedures (*mesures conservatoires*) intended to prevent a harmful situation from occurring or worsening, to protect the rights and interests of one of the parties, or to preserve the public interest.

By adding the term 'others' after 'necessary measures', the legislator indicated that the scope of the administrative judge's powers in provisional emergency relief differs from those in fundamental-freedoms emergency relief, which the legislator introduced for the first time through Law No. 08-09 of Civil and Administrative Procedure.

As for provisional (protective) relief, the emergency judge's powers are very broad. They allow the judge to order all conservative measures, except those provided for in Articles 919 and 920 of the CAPA — meaning measures reserved for the following fields:

- suspension of execution in connection with an annulment claim;
- fundamental freedoms emergency relief.

These powers are characterised by diversity and variety, and above all by their complete independence from the existence of a substantive case. Once the condition of extreme urgency is met, claimants may use this procedure to rapidly and temporarily protect their rights.

The measures necessary for this, which differ from those relating to fundamental freedoms relief, can be divided into two main categories:

1. measures directed against private persons, and
- (2) measures directed against public persons.

Conclusion:

Administrative emergency justice plays a significant role in safeguarding individuals' legal rights against the administration, particularly following the recent amendments to the Code of Civil and Administrative Procedure (Law No. 22-13). The Algerian legislator organised this area of law and introduced fundamental reforms compared with Law No. 08-09. These reforms are mainly evident in the powers of the emergency judge. In response to the research question posed, we conclude that the Algerian legislator has strengthened the powers of the administrative emergency judge, enabling them to accelerate judicial protection procedures by ordering urgent measures. This boosts confidence in the judicial system and ensures the effective protection of rights and legal interests, reflecting a state governed by law.

⁵³- See: Olivier Le Bot, *The Guide to Administrative Urgent Proceedings*, Dalloz, Paris, 2013, pp. 408–409.

Based on the analysis conducted in this study, the most significant findings regarding administrative emergency justice are presented below:

- Law No. 22-13 amended the composition of the emergency judiciary at the level of administrative courts, newly created administrative appeal courts and the Council of State. The system became as follows:

- Administrative Court: emergency matters are decided by the president of the court.
- Administrative Court of Appeal: the case is decided by the collegial formation chaired by its president.
- Council of State: the collegial formation decides.

Following the 2022 amendment, the hierarchy of administrative jurisdiction changed from what had been in place since the adoption of the duality of jurisdiction in Algeria. Previously, actions were brought before administrative courts as a first instance and appeals were made before the Council of State. Additionally, contrary to the constitutional principle of 'litigation in two levels', the Council of State was competent to examine certain cases as a first and final instance by an initial final decision. With the adoption of Law No. 22-13, new administrative judicial bodies were created as an appellate level, namely the special (exceptional) administrative courts, so that the principle of 'litigation in two levels' is respected in administrative justice. Consequently, the hierarchy now operates across three administrative judicial structures, strengthening the effectiveness of administrative emergency justice and improving the handling of urgent requests and requests for suspension of execution. This brings justice closer to citizens, enabling them to have urgent matters addressed more effectively.

The latest amendment, Law No. 22-13, clarified many aspects that had previously been the subject of disagreement. It granted the administrative emergency judge competence to rule on claims for suspension of execution and removed some provisions that had previously created contradictions.

The legislator granted the administrative emergency judge broad discretionary powers to assess the substantive conditions, without limiting them to specific scenarios relating only to the suspension of the execution of an administrative decision. This enables the judge to take appropriate measures suited to each case.

The powers of the administrative emergency judge were expanded in all applications related to immediate emergency proceedings under the amendment to Law No. 22-13, particularly with regard to the necessary measures that go beyond the requirement not to affect the merits (i.e. the original right).

- Following the French approach, the Algerian legislator granted administrative jurisdiction competence to decide cases involving a material infringement by the administration against the right to property or fundamental freedoms. Litigants can achieve the same objective through urgent procedures, such as ordering the suspension of the execution of administrative decisions or the implementation of necessary measures.

- Provisional (protective) emergency relief is supplementary to emergency relief in the areas of (i) suspending administrative decisions and (ii) emergency relief regarding fundamental freedoms. The Algerian legislator followed its French counterpart in amending provisional emergency relief, first by removing the condition of not affecting public order, and later by removing the condition of not affecting the merits (the original right).

Recommendations

Based on these overall findings, we propose the following recommendations following the substantial changes introduced to administrative emergency justice by Law No. 22-13:

- Reinforce the role of administrative emergency justice to ensure the effective protection of rights and freedoms in all cases.

Expand its scope of competence so that it covers all urgent administrative disputes while ensuring the availability of prompt and fair procedures that align with the characteristics of administrative emergency justice.

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