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Issuing Orders to the Administration for the Enforcement of Administrative Judicial Rulings: Between Prohibition and Empowerment – Manifestations of the Transformation in Algerian Legislation and Judicial Jurisprudence –

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Abstract:

The judiciary in general, and the administrative judiciary in particular, represents the conscience of the nation. Its primary mission is to give effect to legal provisions and issue judicial rulings that are binding and enforceable. It constitutes a guarantee for consolidating the rule of law and protecting individuals' rights and freedoms. However, the belief long prevailed that the judge's role ends once the judgment is rendered, while its enforcement is entrusted to the administration. During a period in which the legislature, under the former Algerian Code of Civil Procedure, remained silent regarding the possibility for the administrative judge to issue orders to the administration for the enforcement of judicial rulings, the principle prohibiting the issuance of orders to the administration prevailed. This led to the administration's reluctance and resistance to enforcing such rulings, thereby striking at the very authority and sanctity of the judiciary. Nevertheless, during this period, the administrative judiciary identified specific cases in which it exercised its jurisprudential role by issuing orders to the administration in order to ensure the enforcement of its rulings. It therefore became necessary for the judiciary to evolve towards finding practical solutions to overcome the administration's resistance in this area. This prompted the legislature to expressly recognize the power to issue orders to the administration and to reinforce it with the power to impose a coercive fine, where necessary, in order to compel the administration to comply. Administrative judicial jurisprudence nevertheless continues to play an important role in this field. Legal rules always require judicial interpretation to ensure their continuity, as they remain incapable of addressing all individual factual situations.

Keywords: Administration; Administrative Judiciary; Judicial Ruling; Enforcement of Judgments; Issuance of Orders; Prohibition.

Introduction:

Administrative law governs the administration's broad and multifaceted activities, thereby ensuring compliance with the principle of legality and consequently constituting a fundamental guarantee for the protection of individuals' rights and freedoms. From this perspective, any infringement by the administration upon individuals' rights entitles them to resort to the administrative judiciary, whose mission essentially revolves around giving effect to legal provisions and issuing judicial rulings that are binding and enforceable.

It is well established that respect for and enforcement of judicial rulings in any State reflects the extent of its civilization and development. The enforcement of judicial rulings refers to the set of legal procedures followed in order to achieve the purpose for which such rulings were issued. Without enforcement protection, the substance of an administrative judicial ruling containing a solution to an administrative dispute would remain merely ink on paper. Hence, the importance of enforcement becomes evident, as it transforms the solution from a written text contained in the judgment into a tangible resolution of the administrative dispute in practice. Enforcement therefore constitutes the link between legal rules and practical reality and the means through which reality is brought into conformity with the requirements of the law. Consequently, legal protection of rights and public freedoms is achieved on the one hand, and the principle of legality is upheld on the other. This highlights the considerable importance of the issue of enforcing administrative judicial rulings. However, practical reality raises a significant issue when the administration refuses to enforce a judicial ruling. In this regard, it may be said that the belief long prevailed that the judge's role ends upon pronouncing the judgment settling the

dispute brought before him, and that the enforcement of the judgment is consequently entrusted exclusively to the administration. This resulted from an erroneous understanding of the principle of separation of powers, as reflected in administrative judicial rulings in this field.

Accordingly, what is the benefit of recognizing individuals' right to resort to the administrative judiciary, bring actions against the administration, and have such disputes adjudicated by it—particularly given that the administrative judiciary has long developed and devised effective solutions compatible with the protection of rights and freedoms in application of the principle of legality—if the administration subsequently refuses to enforce those rulings? This is particularly significant because non-enforcement strikes at the very sanctity and authority of the judiciary and raises doubts regarding the effectiveness and utility of administrative justice.

On the basis of the foregoing, it became necessary for both administrative legislation and the administrative judiciary to evolve towards finding practical and effective solutions to overcome the administration's resistance to the enforcement of administrative judicial rulings. Such resistance may take several forms, including refusal to enforce, incomplete enforcement, defective enforcement, enforcement contrary to the intended meaning of the judgment, or delay in enforcement, with the administration invoking various grounds such as the preservation of public order or the public interest, or material or legal difficulties relating to enforcement.

This development became evident through administrative judicial jurisprudence in this field, whereby, in the absence of a legal provision, the administrative judge exercised judicial interpretation and required the administration to enforce judicial rulings in certain cases but not in others, despite the legislature's silence regarding such a possibility under the former Code of Civil Procedure. This prompted the legislature, under the new Code of Civil and Administrative Procedure, to recognize the administrative judge's power to issue orders to the administration and impose a coercive fine upon it in order to compel enforcement, while leaving the administrative judge with discretionary power in this respect. Thus, two fundamental stages can be identified regarding the administrative judge's power to issue orders to the administration for the enforcement of judicial rulings under Algerian legislation: the legislature's silence under the former Code of Civil Procedure (C.C.P.), and its recognition of such power under the currently applicable Code of Civil and Administrative Procedure (C.C.A.P.).

Accordingly, this study aims to shed light on these two fundamental stages in Algerian legislation by examining the legislature's position, its justifications, and the resulting effects, both during the period of legislative silence and following the recognition of the administrative judiciary's power to issue orders to the administration for the enforcement of its rulings. The study also relies on administrative judicial jurisprudence, which demonstrates the administrative judiciary's position regarding this power.

On the basis of the foregoing, the following research question is raised: To what extent has the legislative transition from silence to the express recognition of the administrative judiciary's power to issue orders to the administration for the enforcement of its rulings contributed to developing effective solutions to the crisis arising from the administration's refusal to enforce such rulings and to achieving a balance between the authority and standing of the administrative judiciary and the protection of rights and freedoms, on the one hand, and administrative authority, on the other?

To answer this research question and address all its aspects, the study will rely on the methodologies required by legal research. These include the descriptive method, which consists of describing this power and tracing its legislative and judicial development from the stage of prohibition and restriction to the stage of authorization and legislative recognition; and the analytical method, which consists of examining and analyzing the legislative provisions and judicial jurisprudence relating to this power in order to identify their strengths, weaknesses, and shortcomings, with the aim of reaching conclusions and proposing recommendations that serve the purposes of the study.

To achieve this objective, the study has been divided into two sections as follows:

Section One: The Administrative Judge's Power to Issue Orders to the Administration for the Enforcement of Judicial Rulings in Light of the Legislature's Silence under the Algerian Code of Civil Procedure.

Section Two: The Administrative Judge's Power to Issue Orders to the Administration for the Enforcement of Judicial Rulings under the Currently Applicable Code of Civil and Administrative Procedure.

Section One: The Administrative Judge's Power to Issue Orders to the Administration for the Enforcement of Judicial Rulings in Light of the Legislature's Silence under the Algerian Code of Civil Procedure

It is well established that an administrative dispute comes to an end with the issuance of an administrative judicial ruling, which is, in principle, binding and enforceable. Accordingly, the fate of such a ruling is either compliance, through its acceptance and voluntary enforcement, or non-compliance. There is no doubt that the enforcement of judicial rulings against the public administration is not an easy matter that can be readily achieved, since the privileges of public authority enjoyed by the administration and the impossibility of compulsory enforcement against it make enforcement difficult, if not almost impossible. Accordingly, the administration's resistance and failure to comply with such rulings may take several forms, such as refusal to enforce, incomplete or defective enforcement, delay in enforcement, or enforcement contrary to the intended meaning of the judgment. The administration may invoke several justifications for such resistance, including, for example, material or legal difficulties in enforcement, the preservation of the public interest, or the maintenance of public order.

This stage was characterized by the ambiguity and inadequacy of the provisions of the former Code of Civil Procedure (repealed) ⁱ, particularly with regard to administrative disputes and, more specifically, the powers of the administrative judge in enforcing judicial rulings. This placed the administrative judge between the legislature's silence, on the one hand, and judicial jurisprudence influenced by the earlier case law of the French administrative judiciary, on the other ⁱⁱ.

Accordingly, the general principle prevailing during this stage was the principle prohibiting the administrative judge from issuing orders to the administration. However, as an exception to this position of the Algerian administrative judiciary, it exercised judicial interpretation in certain cases—in the absence of legislative provisions—and allowed itself to issue orders to the administration for the enforcement of its rulings.

This will be examined through two Subsections as follows: the First Subsection addresses the principle prohibiting the issuance of orders to the administration for the enforcement of administrative judicial rulings and the position of the Algerian administrative judiciary thereon; while the Second Subsection examines the Algerian administrative judiciary's jurisprudence in issuing orders to the administration for the enforcement of its rulings as an exception to the principle of prohibition.

First Subsection: The Principle Prohibiting the Issuance of Orders to the Administration for the Enforcement of Administrative Judicial Rulings and the Position of the Algerian Administrative Judiciary Thereon

Before explaining this principle, it is first necessary to define the administrative judge's power to issue orders to the administration in relation to the enforcement of administrative judicial rulings. This power refers to the administrative judge, after deciding the dispute brought before him, issuing an order to the administration to perform an act, refrain from performing an act, or deliver something in enforcement of his judgment, whether in an action for excess of power (action for annulment) or in a full jurisdiction action (action for compensation)ⁱⁱⁱ. Accordingly, this Subsection will examine the concept of the principle prohibiting the issuance of orders to the administration and the position of the Algerian administrative judiciary thereon through the following Branches:

First Branch: The Concept of the Principle Prohibiting the Issuance of Orders to the Administration

The principle prohibiting the issuance of orders to the administration means that the administrative judge does not have the power, at the request of individuals, to require the administration to perform or refrain from performing a specific act falling within its original sphere of competence^{iv}. In other words, the judge may not order the administration to undertake acts or measures for the enforcement of his judgment, but must confine himself to adjudicating the dispute brought before him, whether in an action for excess of power or in a full jurisdiction action^v. With regard to this prohibition, the Algerian administrative judiciary was influenced by its French counterpart, which for a long time refused to recognize its own power to issue orders to the administration or to substitute itself for the administration. The French administrative judiciary rejected the characterization of its relationship with the administration as an administrative relationship and affirmed that its relationship with the administration was judicial in nature, governed by a fundamental procedural principle according to which the judge adjudicates but does not administer and possesses no hierarchical authority over the executive power^{vi}.

The emergence of this principle in France was associated with historical and political circumstances experienced by the country, and its application was linked to the practices of the administrative judiciary—the French Council of State. This principle is based on a number of foundations and justifications largely grounded in a strict application of the principle of separation of powers^{vii}.

The French Council of State remained committed to this principle [the principle of prohibition], which it imposed upon itself in order to preserve the independence of the administration. Moreover, it regarded the principle as a matter of public order. Thus, in an action for excess of power, it would either dismiss the action on the basis of the lawfulness of the decision or annul the decision without issuing orders to the administration to adopt specific enforcement measures. In a full jurisdiction action, it would determine the right that was the subject matter of the dispute, such as the injured party's right to compensation for an act of the administration, without issuing an order requiring the administration to satisfy the contractor's right determined in the judgment or to pay the compensation awarded to the injured party.^{viii}

Second Branch: The Position of the Algerian Administrative Judiciary on the Principle Prohibiting the Issuance of Orders to the Administration

The rulings of the Algerian administrative judiciary were influenced by the position of the French administrative judiciary—as previously stated—even though this prohibition did not arise from express provisions in the Algerian legal system, given the legislature's silence on the matter under the former Code of Civil Procedure (repealed). Rather, the prohibition was established through judicial jurisprudence.

Among the administrative judicial rulings illustrating this position is, for example, the decision of the Administrative Chamber of the former Supreme Council dated 18/03/1978, which held that: "The administrative judicial body does not have the power to issue orders to the administration"^{ix}. Likewise, the decision of the Administrative Chamber of the Supreme Court dated 15/12/1991 stated that: "...where the civil servant has fulfilled the conditions provided for by law, the administration is obliged to reinstate him, without having any discretionary power as to whether or not he should be reinstated..."^x. This prompted Algerian legal scholars to state that the jurisprudence of the Administrative Chamber of the Supreme Council and the Supreme Court had consistently confined itself, when annulling unlawful administrative decisions, to such annulment without issuing any orders to the administration.

However, during this stage—the period of the jurisprudence of the Administrative Chamber of the Supreme Council and the Supreme Court—there was a judicial development that departed from the established case law and implicitly recognized the permissibility of issuing orders from the judge to the administration. This was reflected in Decision No. 154268 of the Administrative Chamber of the Supreme Court dated 16/03/1997, in which the Court annulled the appealed decision and, after assuming jurisdiction and deciding the case anew, referred the administration to the

enforcement of its commitments. This may be understood as containing a form of order directed against the administration.^{xi}

As for the jurisprudence of the Council of State, it expressly affirmed the principle prohibiting the issuance of orders to the administration. For example, in its decision dated 08/03/1999, it stated: "...Whereas the present action seeks an order requiring the Wali of Mila and the Director of Agricultural Reform to reinstate Mr. Bourtal Rachid in the civil service or grant him a farm holding on an individual-benefit basis; whereas the administrative judge cannot issue orders to the administration; consequently, the judges of first instance were correct in rejecting the request".^{xii}

Second Subsection: The Algerian Administrative Judiciary's Jurisprudence in Issuing Orders to the Administration for the Enforcement of Its Judgments as an Exception to the Principle of Prohibition

Contrary to the prevailing position of the Algerian administrative judiciary during this stage, which consisted in prohibiting the issuance of orders to the administration, the judiciary departed from this position in certain specific cases and did not remain a mere spectator. Rather, in the absence of legislative provisions, it exercised judicial interpretation and allowed itself to issue orders to the administration for the enforcement of its judgments, whether expressly or implicitly. At the same time, however, it did not hastily extend its review powers, but instead gradually relaxed this prohibition, affirming its authority as a guardian of legality in several forms^{xiii}.

Before examining these forms, it is first necessary to provide a brief explanation of the meaning of judicial jurisprudence. Judicial jurisprudence refers to the solution adopted by a judicial body in a case brought before it where the applicable legal provision is absent, ambiguous, or insufficient. It is an activity undertaken by all judges of courts at different levels and is not confined exclusively to courts of law. Moreover, stability and repetition over a certain period are not prerequisites for judicial jurisprudence. Every judgment rendered in a case on the basis of interpreting an ambiguous provision, completing a deficiency, addressing a legal vacuum, or deriving a solution from other sources of law constitutes judicial jurisprudence^{xiv}. Administrative judicial jurisprudence refers to the body of administrative judicial decisions issued by administrative judicial bodies, regardless of their nature or level, whether published or unpublished, which contain a new legal position or a change in a previous legal position, whether expressly or implicitly^{xv}.

Accordingly, these exceptional forms of the principle prohibiting the issuance of orders to the administration for the enforcement of administrative judgments will be examined in the following Branches:

First Branch: The Case of Material Trespass and Unlawful Seizure

Although the administrative judge was not, in principle, entitled to issue orders to the administration, under the influence of the established jurisprudence of the French Council of State, the Algerian administrative judiciary departed from this principle despite the absence of any legal provision either authorizing or prohibiting the issuance of such orders. This departure was based on Article 171 bis of the Code of Civil Procedure (repealed), which regulated the powers of the administrative summary judge and provided that: "In all cases of urgency, the President of the Judicial Council or the member delegated by him may, upon an application that is admissible even in the absence of a prior administrative decision, order, as a matter of urgency, all necessary measures, except those relating to aspects of the dispute affecting public order or public security." On the basis of the expressions "cases of urgency" and "order, as a matter of urgency, all necessary measures, except...", the administrative judiciary exercised judicial interpretation by issuing orders to the administration in cases of material trespass and unlawful seizure.

In this context, Ms. "Farida Aberkane" (a pioneer in the Algerian judiciary, particularly in administrative justice) justified the issuance of orders by the judge to the administration in such cases as follows: "An administration that exceeds the limits of its lawful powers violates rights and freedoms and thereby loses the respect due to it, which justifies the judge ruling against it and even requiring it to cease the trespass"^{xvi}.

The judiciary defined material trespass as: "An administrative act that is not originally connected with the application of a legislative or regulatory provision"^{xvii}. Professor Farida Aberkane identified two situations in which material trespass may arise: "First: where the administrative act giving rise to material trespass lacks a lawful basis, referred to as the 'absence of a lawful basis'; second: where the administrative act is lawful in itself but has been implemented under unlawful circumstances, thereby giving rise to material trespass (i.e., defective procedures), referred to as the 'case of unlawful procedures'"^{xviii}.

Among the judicial precedents relating to this situation is a decision of the Administrative Chamber of the Supreme Council in which the judge expressly affirmed that: "It is not within the judge's jurisdiction to issue orders against the administration except in cases of trespass"^{xix}.

Likewise, the Administrative Chamber of the Supreme Court held that: "Whereas, in matters of trespass, the administrative judge may issue orders to the administration"^{xx}.

There is also a decision of the Algerian Council of State ordering the Municipality of Oran to terminate the state of trespass affecting premises that it had leased to the Algerian Automobile Distribution Company, by restoring the premises to their original condition prior to the material trespass and placing them at the disposal of the claimant. The Council held that: "Whereas the occupation of the premises by the municipality is not based on any statutory or regulatory provision, but constitutes trespass since the municipality itself enforced its decision without resorting to the courts for that purpose... the municipality is ordered to put an end to the state of trespass, restore the premises to their original condition, and place them at the disposal of the appellant"^{xxi}.

However, it should be noted in this regard that, in the above-mentioned decision, the Council of State did not grant the appellant company's request seeking to compel the municipality to vacate the premises subject to a coercive fine, although it was in a position to do so given the existence of a case of trespass.^{xxii}

Second Branch: The Case of the Administration's Statutory and Contractual Obligations

In addition to cases of material trespass, the Algerian administrative judiciary exercised judicial interpretation by issuing orders to the administration in cases involving the administration's statutory and contractual obligations.^{xxiii}

1. The Case of a Statutory Obligation:

A statutory obligation refers to the existence of legislative provisions requiring the administration to perform an act, refrain from performing an act, or deliver something, upon which the judge may rely in issuing orders to the administration requiring it to fulfil the obligations imposed upon it^{xxiv}. Among the applications of administrative judicial jurisprudence in this area is its approach in matters of expropriation for public utility, as reflected in a decision of the Administrative Chamber of the Supreme Court, which held that: "Whereas, on the date the decision was issued, Ordinance No. 53-997 dated 23 October 1953 remained the applicable legal text. Whereas Article 54 of this Ordinance provides that... whereas, correctly and in application of this provision, the appellant, who satisfies the prescribed time-limit requirements, seeks the annulment of the decision, with the logical consequence being the resale of the parcel of land to him".^{xxv}

In the same context, with regard to demolition permits, the Council of State held that: "...Whereas it is clear from the case file that the President of the Municipal People's Assembly did not undertake the procedures provided for in Article 77 of the above-mentioned Decree, it is therefore necessary to grant the appellant's claims relating to the requirement to evacuate the disputed building and to order the municipality to undertake the relevant procedures... [Accordingly, the operative part of the decision provided for] upholding the appealed decision in principle and ordering the municipality to evacuate the building".^{xxvi}

2. The Case of a Contractual Obligation

A contractual obligation refers to the existence of an administrative contract containing an obligation on the administration to perform an act, refrain from performing an act, or deliver something, upon which the judge may rely in issuing orders to the administration requiring it to fulfil its contractual obligations.^{xxvii}

In this regard, the Algerian Council of State held in one of its decisions that: "...Whereas the administration failed to conduct an investigation into the actual occupant of the premises despite the appellant's request, and its suspension of the delivery of the contracts is unjustified; accordingly... the appealed decision is annulled and, ruling anew, the respondent, the Director of State Property and Real Estate Affairs of the Wilaya of Setif, is ordered to deliver to the appellant the administrative contract drawn up on 05 September 1990".^{xxviii}

Accordingly, as a conclusion to this Section, it may be stated that, in the absence of any provision in the Code of Civil Procedure concerning the possibility for the administrative judge to issue orders to the administration for the enforcement of judicial rulings, administrative judicial jurisprudence established, as a general rule, the prohibition on issuing orders to the administration, while recognizing certain exceptions in which the administrative judiciary exercised judicial interpretation and issued orders to the administration in order to ensure the enforcement of its judgments.

SECTION TWO: THE ADMINISTRATIVE JUDGE'S POWER TO ISSUE ORDERS TO THE ADMINISTRATION FOR THE ENFORCEMENT OF JUDICIAL RULINGS UNDER THE CURRENTLY APPLICABLE CODE OF CIVIL AND ADMINISTRATIVE PROCEDURE

Anyone following judicial policy in Algeria can clearly observe, beyond any doubt, the adoption of the previously mentioned principle prohibiting the administrative judge from issuing orders to the administration, as a result of several factors, most notably the erroneous interpretation of the principle of separation of powers. Nevertheless, despite this prohibition, the administrative judiciary exercised judicial interpretation and issued orders to the administration for the enforcement of its judgments in certain cases, as previously explained. Despite this, the problem of enforcing judgments rendered against the administration remained unresolved and no definitive solution was found, particularly since such non-enforcement undermines the authority of the administrative judiciary and reduces its effectiveness, infringes the principle of equality before the courts and the guarantee of the right to litigation, and violates the right to effective enforcement of judicial judgments, thereby constituting a weakness in administrative law.

Accordingly, the position of the Algerian legislature shifted from silence and prohibition under the former and repealed Code of Civil Procedure to express recognition and legislative consolidation under the currently applicable Code of Civil and Administrative Procedure. The latter specified the types of such orders and the conditions governing them, which will be examined through two Subsections.

The First Subsection addresses: the legislative recognition of the administrative judiciary's power to issue orders to the administration for the enforcement of its judgments and the justifications thereof; whereas the Second Subsection addresses: the types of orders issued by the administrative judge to ensure the enforcement of judicial rulings and the conditions governing them.

First Subsection: Legislative Recognition of the Administrative Judiciary's Power to Issue Orders to the Administration for the Enforcement of Its Judgments and the Justifications Thereof

In order to remedy the absence of legal provisions recognizing the administrative judge's authority to issue orders to the administration, which had given rise to the problem of prohibiting the administrative judge from issuing orders to the administration for the enforcement of judicial rulings, certain States, including Algeria, expressly recognized this power on the basis of several considerations and justifications. These will be explained through the following Branches:

First Branch: Legislative Recognition of the Administrative Judiciary's Power to Issue Orders to the Administration for the Enforcement of Its Judgments

It may first be appropriate in this context to provide an example illustrating the importance of the enforcement of administrative judicial rulings and the extent to which it is considered a criterion for measuring the development and advancement of States, which constitutes a fundamental reason for legislative recognition of this power not only in Algeria, but in all States.

One of the best examples that may be cited in this context is found in England, where, during the Second World War, a judge issued a ruling prohibiting aircraft from using an airport adjacent to the court while court hearings were in session, because of the intense noise produced by those aircraft. Given the serious consequences caused by the ruling, the governmental authorities referred the matter to the Prime Minister, Winston Churchill, who made the following memorable statement: **“The judgment must be enforced; it would be less serious for history to record that England was defeated in the war than to record that it refused to enforce a judicial judgment.”**^{xxxix}

It is precisely this importance that justifies the urgent need for the legislature to recognize and expressly establish the administrative judiciary's power to issue orders to the administration in order to ensure the enforcement of its judgments. The French legislature was among the first to recognize this power after a long period during which the Council of State had maintained the principle of prohibition in this field. This was achieved through Law No. 95/125 of 08/04/1995, under which administrative judges at all levels were granted the power to issue express orders to the administration for the enforcement of their judgments.^{xxx}

This development also appeared in Algerian legislation, which, following the example of the French legislature, recognized this power under the currently applicable Code of Civil and Administrative Procedure^{xxxi}. The Code introduced a chapter entitled: “Enforcement of Judgments of Administrative Judicial Bodies,” comprising Articles (978 to 989). This marked the second stage in the development of the administrative judge's power to issue orders to the administration.

In this context, it may be stated that although legislative recognition of this power is important, the role of administrative judicial jurisprudence in this area must not be overlooked. If administrative judicial jurisprudence was responsible for creating the theory of administrative law in its narrow and technical sense by establishing its rules in the absence of legislative provisions, its role remains equally significant even where legal provisions exist. It interprets ambiguous provisions, reconciles conflicting texts, and adopts a specific position where the legal provision grants the judge discretionary authority, thereby creating a new rule for resolving the dispute. Legal rules therefore remain constantly dependent upon judicial jurisprudence in order to ensure their continuity and vitality, since, regardless of how carefully they are drafted, they remain incapable of addressing all individual factual situations due to their general and abstract nature.

Second Branch: Justifications for the Legislative Recognition of the Administrative Judiciary's Power to Issue Orders to the Administration for the Enforcement of Its Judgments

The express recognition by the Algerian legislature, under the currently applicable Code of Civil and Administrative Procedure, of the administrative judiciary's power to issue orders to the administration for the enforcement of its judgments was based on several considerations and justifications, which may be summarized as follows:

- The legislature took into account the criticisms directed by legal scholars at the principle of prohibition. As regards reliance on the principle of separation of powers and its rigid interpretation as a justification for prohibition, such an interpretation has no basis in either law or logic. Rather, it arose from historical considerations aimed at achieving a political balance between the administration and the judiciary exercising control over it. The consequences of this principle are no longer justified today; instead, they have become inconsistent with democracy and the rule of law. Moreover, invoking this principle involves an obvious fallacy, since the administrative judge exercises a form of authority over the administration and intervenes, even indirectly, in its activities; otherwise, there would be no purpose in judicial review of administrative action, such as reviewing proportionality between the offence and the sanction or reviewing manifest errors of assessment. Even if such review does not directly involve a set of orders issued by the administrative judge to the administration, it nevertheless constitutes in itself a directive that the administration must take into account in the future so that its actions are not subject to annulment or give rise to compensation. Accordingly, the principle of separation of powers is merely an argument used to avoid entering into direct conflict with the administration.^{xxxii}
- The judge's power to issue orders constitutes an integral part of his power to adjudicate. A careful examination of a judgment reveals that it is, in substance, nothing more than an order issued by its author to the administration, requiring it either to perform an act or to refrain from another. The close relationship between authority, order, and judgment has led some scholars to compare it to the relationship between an object and its shadow. Accordingly, the judge's function does not merely consist in declaring the law, but also includes the power to order all necessary measures so that the judgment may be effectively implemented in practice. Such power therefore complements the judge's adjudicatory authority.^{xxxiii}
- The absence of a legal provision concerning the administrative judge's power to issue orders to the administration for the enforcement of judgments bears no relation to the principle of prohibition, and relying on such absence as a basis for preventing the judge from issuing orders to the administration is inappropriate, particularly in view of changing circumstances that require the adoption of a new policy aimed at building a State governed by the rule of law. The principle of legality constitutes one of the most important foundations of such a State, and one

of the mechanisms for protecting it is the administrative judge's authority to issue orders requiring the administration to take the necessary measures for the enforcement of judicial judgments.

- The issuance of orders to the administration is one of the requirements of the litigant's right to a fair determination of his case. The right to a fair trial is not limited, as has commonly been understood, merely to guaranteeing the rights of the defence. Rather, according to the modern approach adopted by the European Court of Human Rights, it consists of three components: the right of access to a court, the proper conduct of proceedings including the guarantee of the rights of the defence, and the right to effective enforcement of the judgment. The benefit sought by a claimant from a judgment is not merely a declaration that he is entitled to what he claims, but primarily the effective realization of that entitlement, that is, the possibility of transforming it into practical reality. It is therefore necessary to recognize the need for judicial intervention to ensure effective enforcement, because the judge's intervention through the orders he issues constitutes a fundamental factor in achieving this objective.^{xxxiv}
- We also consider that one of the reasons that led the Algerian legislature, in particular, to adopt the principle permitting the administrative judge to issue orders to the administration for the enforcement of judicial rulings was the jurisprudence developed by the administrative judiciary itself in this field in the absence of legislative provisions. Although it adopted the principle of prohibition, it nevertheless identified certain situations in which it intervened by issuing orders to the administration. Furthermore, the administrative judiciary became aware that maintaining this prohibition would undermine its authority. This is reflected in the opinion expressed by Professor Chafika Ben Saoula, who stated: "...We consider—by virtue of our professional function (namely, as a judge in administrative matters holding the rank of State Councillor-Rapporteur at the Algerian Council of State)—that, indeed, in the absence of a legal provision, the Algerian administrative judge cannot depart from this prohibition. However, the judge has become aware that adhering to it affects the very substance of the decision he renders and prevents him from performing his function in the best possible manner".^{xxxv}

Second Subsection: Types of Orders Issued by the Administrative Judge to Ensure the Enforcement of Judicial Rulings and the Conditions Governing Them

The meaning of issuing orders to the administration was previously explained in the introduction to the First Section of this study. The Algerian legislature recognized this power under the current Code of Civil and Administrative Procedure, which introduced a chapter on the enforcement of judgments rendered by administrative judicial bodies, comprising Articles (978 to 989). These provisions set out the types of such orders and the conditions governing them. This will be explained through the following Branches:

First Branch: Types of Orders Issued by the Administrative Judge to Ensure the Enforcement of Judicial Rulings

By referring to Articles 978 and 979 of this chapter, it appears that the legislature distinguished between two types of enforcement orders: orders issued by the administrative judge at the stage preceding the enforcement of the judgment, and orders issued at the stage subsequent to the judgment. In doing so, the Algerian legislature was influenced by French Law No. 95/125, particularly Articles 911/1 and 911/4 thereof, corresponding respectively to Articles 978 and 979^{xxxvi}. This will be explained as follows:

First: Orders Issued Prior to the Enforcement of the Administrative Judicial Ruling

Article 978 of the Code of Civil and Administrative Procedure provides that: "Where an order, judgment, or decision requires a public legal person or a body whose disputes fall within the jurisdiction of the administrative judicial bodies to adopt specific enforcement measures, the administrative judicial bodies requested to do so shall, in the same judgment, order the required measure and, where appropriate, determine a time limit for enforcement."

Accordingly, a judgment annulling an administrative decision is one of the judgments involving an obligation to perform or refrain from performing an act. Among the mechanisms provided by the legislature to ensure its proper enforcement is the power granted to the judge who issued the judgment to specify, within the judgment itself, its enforcement consequences by issuing orders to the administration requiring it to adopt the necessary enforcement measures. The judge may also, on his own initiative, set a time limit within which the administration must adopt such measures if he considers that they should be taken within a specific period. In this regard, the matter is left to the judge's discretion on the basis of his discretionary power.

In France, the Council of State indicates in its judgments the measures that the administration must follow in order for the enforcement of the judgment to comply with the authority of *res judicata*.^{xxxvii}

In the same context, the Algerian Council of State has adopted the same approach in several of its judgments. One example is its decision of the Fourth Chamber, Index No. 330, dated 22/05/2000, (unpublished), in which it ordered the National Agency for Archaeology and Historical Monuments to reinstate the employee (Y.K.) to his position after upholding the decision of the Administrative Chamber of the Judicial Council of Algiers annulling the dismissal decision issued against him.^{xxxviii}

Likewise, in a decision dated 06/11/2000, the Council of State held as follows: "Whereas the appellant, by means of the decision transferring her from one school to another without her consent and without her participation in the annual transfer movement, seeks the annulment of the transfer decision dated 06/07/1997... Whereas the dispute concerns the annulment of the compulsory transfer decision dated 06/07/1997 to Mansoura Middle School, without her consent and without her participation in the annual transfer movement... The conduct of the respondent constitutes an excess

of power, and the appellant must therefore be reinstated in her original position at Bouguirat Middle School in accordance with the committee's decision^{xxxxix}.

Second: Orders Issued Subsequent to the Administrative Judicial Ruling

Article 979 of the Code of Civil and Administrative Procedure provides that: "Where an order, judgment, or decision requires a public legal person or a body whose disputes fall within the jurisdiction of the administrative judicial bodies to adopt specific enforcement measures that had not previously been ordered because they were not requested in the earlier proceedings, the administrative judicial bodies requested to do so shall order the issuance of a new administrative decision within a specified period."

It may be inferred from this provision that where a judicial ruling imposes an obligation upon the administration but does not contain any order addressed to it because the claimant omitted to request such an order in his claims, and where the administration subsequently refuses to comply with the judgment, the judge may, at the request of the interested party seeking the adoption of the necessary enforcement measures, order the administration to issue a new administrative decision in implementation of the judicial ruling within a specified period.

This was also confirmed by Article 981 of the C.C.A.P.^{xl}, which provides for the situation in which the judge omitted to specify the enforcement measures and the administration refuses to enforce the ruling on the ground that the judge did not determine the measures required from it. In such a case, the successful party may submit an application to the judge who issued the judgment requesting the determination of the necessary enforcement measures. The judge may, on his own initiative, set a time limit within which the administration must adopt those measures if he considers that they should be taken within a specific period^{xli}. Here again, the matter is left to judicial jurisprudence according to the circumstances of each case.

In support of this power granted to the administrative judge vis-à-vis the administration, the same provision (Article 981) authorizes the judge to impose a coercive fine. This is also confirmed by Article 980 of the C.C.A.P., which provides that: "The administrative judicial body requested to issue an enforcement order pursuant to Articles 978 and 979 above may impose a coercive fine and determine the date from which it shall take effect." The wording of this provision shows that the legislature left the imposition of the coercive fine and the determination of its effective date to the discretion of the administrative judge according to the circumstances of each individual case.

Second Branch: Conditions Governing the Issuance of Orders to the Administration to Ensure the Enforcement of Administrative Judicial Rulings

These conditions are as follows:

- An express request must be submitted by the interested party to the competent administrative judicial body (Administrative Court, Administrative Court of Appeal, or Council of State) requesting the adoption of the necessary enforcement measures. Articles (978 to 981) expressly require such a request.
- The enforcement of the judgment must require the administration to adopt a specific measure. If enforcement does not require any particular measure, there is no basis for exercising the power to issue orders. Such a measure may consist, for example, of requiring the administration to undertake a specific act, such as issuing a new administrative decision^{xlii}.
- The order must be necessary for the enforcement of the judicial ruling. This may be inferred from Articles (978 to 981), which use the expression "the administrative judicial body shall order." Accordingly, the judge must issue orders to the administration for the enforcement of his judgments whenever such an order is requested and he considers it necessary for enforcement.
- The judgment must be enforceable; otherwise, there is no scope for exercising the power to issue orders. Examples of unenforceability include the annulment on appeal before the Council of State of the judgment sought to be enforced, or the emergence of legal or factual circumstances rendering enforcement impossible.^{xliii}
- The time-limit requirement applies to the second type of orders, namely those issued after the judicial ruling. An application to the administrative judicial body seeking an order for the adoption of the necessary measures for the enforcement of its final judgment or decision, together with a request for a coercive fine where appropriate, may not be submitted until the party against whom the judgment was rendered, namely the administration, has refused enforcement and three (03) months have elapsed from the date of formal notification of the judgment^{xliv}. An exception applies to urgent orders, for which the application may be submitted without any time limit.^{xlv}

However, where the administrative judge has specified in the judgment or decision sought to be enforced a particular time limit, instead of the three-month period, for the adoption of specific enforcement measures in consideration of the circumstances of enforcement, the application may not be submitted until that time limit has expired^{xlvi}.

If the successful party chooses to pursue an administrative grievance in order to obtain enforcement of the judgment issued by the administrative judicial body, and the administration rejects that grievance, the time limit provided for in Article 987 above [namely the three (03)-month period which the successful party must wait after the administration's refusal to enforce before submitting an application to the judicial body requesting an order compelling the administration to enforce] begins to run after the express or implied rejection of the grievance. In other words, it begins from the date of notification where the rejection is express, or upon expiry of the two-month period granted to the administration to respond, since the expiry of that period constitutes the date of an implied decision of rejection^{xlvii}. Accordingly, after expiry of the three-month period in such a case, the successful party may submit an application to the administrative judge requesting an order for the adoption of the measures necessary for the enforcement of the judgment.^{xlviii}

The legislature also acted appropriately in this regard by providing in Article 989 of the amended and supplemented C.C.A.P. that, at the end of each year, the President of each Administrative Court of Appeal shall submit to the President of the Council of State a report, accompanied by the reports of the Administrative Courts falling within its jurisdiction, concerning enforcement difficulties, the various problems identified, and proposals for appropriate solutions. This demonstrates the legislature's degree of concern with finding solutions to the administration's resistance to enforcement, with a view to preserving the authority of the judicial institution and the authority of its judgments, on the one hand, and safeguarding rights and freedoms, on the other.

Conclusion:

The administrative judiciary may be regarded as the conscience of the nation, as it represents for its citizens the ultimate refuge against injustice and arbitrariness. The enforcement of its judgments constitutes a criterion for assessing the extent of a State's advancement and the distinguished status attained by its judicial system. If the enforcement of judicial judgments in general constitutes the ultimate purpose for which they are rendered, the objective of issuing a judgment is to restore rights to their proper position, which cannot be achieved in practice unless the judgment is actually enforced. Enforcement therefore constitutes evidence of the administrative judge's commitment to protecting individuals' rights and freedoms against administrative arbitrariness. However, this objective is undermined when the administration refuses to enforce a judgment, enforces it improperly or defectively, delays its enforcement, or implements it in a manner contrary to its intended meaning. Such conduct weakens the credibility of the administrative judiciary and, consequently, weakens administrative law itself, undermines the State's character as a State governed by the rule of law, and erodes confidence in the executive authority.

Nevertheless, the administrative judiciary bound itself by the principle prohibiting the issuance of orders to the administration in order to ensure the enforcement of its judgments, in the absence of any provision in the repealed Code of Civil Procedure authorizing the issuance of such orders. This judicial position resulted from an erroneous understanding of the principle of separation of powers. Despite this, the administrative judiciary identified certain situations, such as material trespass and unlawful seizure, in addition to cases involving statutory and contractual obligations, in which it exercised judicial interpretation and issued orders to the administration for the enforcement of its judgments.

As a result of the judiciary's growing awareness that remaining a mere spectator affects the very substance of its decisions and prevents it from performing its function effectively, together with the need to find practical and efficient solutions to overcome the administration's resistance, the criticisms directed at the principle of prohibition, and developments in European law, new powers emerged within the administrative judiciary. These powers were expressly recognized by the Code of Civil and Administrative Procedure, particularly the administrative judge's power to issue orders to the administration in order to ensure the enforcement of judicial judgments, whether before or after enforcement proceedings. This power was also supported, in certain cases, by the authority to impose a coercive fine in order to ensure enforcement. This transformed the administrative judiciary into an enforcement-oriented judiciary and altered the relationship between the judiciary and the administration. Consequently, the stage in which the judge remained a mere spectator came to an end.

Administrative judicial jurisprudence continues to play a significant role despite the express statutory recognition of this power. Indeed, regardless of the precision with which a legal rule is drafted, it remains incapable of addressing all individual factual situations. Accordingly, through judicial interpretation, the administrative judiciary continues to establish new rules for resolving disputes brought before it, by interpreting ambiguous provisions, reconciling conflicting texts, and exercising the discretionary powers granted to it by the legislature in accordance with the circumstances of each case.

Accordingly, with regard to the currently applicable Code of Civil and Administrative Procedure, the following important findings may be recorded:

- Under the current Code of Civil and Administrative Procedure, the legislature requires an express request by the claimant for the adoption of the necessary enforcement measures before the administrative judiciary may issue an order to the administration to enforce its judgment.
- A certain degree of hesitation existed within the Algerian administrative judiciary in ruling against the administration by relying on the powers provided for under the current legislation, as evidenced by the limited number of judicial decisions in this field. This negatively affected the content of its decisions and could weaken individuals' confidence in justice. However, this hesitation characterized the initial period following the entry into force of the Code of Civil and Administrative Procedure, whereas today it is no longer evident.
- Administrative judges are not trained in a specialized manner independently from judges working in other fields, which negatively affects administrative judicial jurisprudence and innovation in administrative judicial rulings.

On the basis of the foregoing, we propose the following recommendations:

- The legislature should free the administrative judge's power to issue orders to the administration for the enforcement of judgments from the requirement of an express request by the claimant for the adoption of the necessary enforcement measures. This would further enhance the effectiveness of the enforcement of administrative judgments.
- Administrative judges should make effective use of the powers granted to them by the legislature, whether the power to issue orders or to impose coercive fines, thereby ensuring the effectiveness of the judgments they render and, consequently, ensuring compliance with the principle of legality.

- Parliamentary accountability of the executive authority, namely the administration in its various bodies and through its officials, should be strengthened in cases of failure to enforce administrative judicial judgments, since it constitutes an effective mechanism for ensuring the enforcement of administrative judicial rulings.
- The training of administrative judges should be separated from that of judges working in other fields. Training periods abroad should also be organized so that they may benefit from the expertise and experience of other countries. Their participation in various national and international scientific conferences in this field should likewise be encouraged in order to keep pace with developments and emerging issues.

References

First: Legislation

- Ordinance No. 66-154 of 08/06/1966, containing the Algerian Code of Civil Procedure, Official Gazette (O.G.) No. 63 of 26/07/1966. (Repealed).
- Law No. 08-09 of 25/02/2008, containing the Code of Civil and Administrative Procedure, O.G. No. 21 of 23/04/2008, amended and supplemented by Law No. 22-13 of 12/07/2022, O.G. No. 48, issued on 17/07/2022.

Second: Books

- Hussein Abdelwahid, *Enforcement of Administrative Judgments*, National Council Press, Cairo, Egypt, 1984.
- Hamdoun Dhouadia, *Enforcement of Administrative Judicial Rulings in Algerian Law*, Dar Al-Houda for Printing, Publishing and Distribution, Algeria, 2015.
- Chafika Ben Saoula, *The Problem of the Administration's Enforcement of Administrative Judicial Decisions – A Comparative Study*, Dar Houma for Printing, Publishing and Distribution, Algeria, 2010.
- Abdelkader Addou, *Guarantees for the Enforcement of Administrative Judgments against the Public Administration*, Dar Houma for Printing, Publishing and Distribution, Algeria, 2010.
- Ali Omar Hamdi, *The Administrative Judge's Power to Issue Orders to the Administration – A Comparative Study*, Dar Al-Nahda Al-Arabiya, Cairo, Egypt, 2003.
- Faiza Brahimi, *The Financial Impact of the Non-Enforcement of Administrative Judicial Rulings*, Part One, Dar Al-Houda for Printing, Publishing and Distribution, Algeria, 2013.
- Farida Aberkane, *Trespass*, Proceedings of the Forum of Judges of the Administrative Chambers held on 22, 23, and 24 December 1990, Ministry of Justice, National Office for Educational Works, 1992.
- Lahcine Ben Cheikh Ath Melouya, *Lessons in Administrative Disputes – Means of Legality*, 4th ed., Dar Houma for Printing, Publishing and Distribution, Algeria, 2009.
- Lahcine Ben Cheikh Ath Melouya, *Selected Decisions from the Jurisprudence of the Council of State*, Part One, Dar Houma for Printing, Publishing and Distribution, Algeria, 2003.
- Lahcine Ben Cheikh Ath Melouya, *Selected Decisions from the Jurisprudence of the Council of State*, Part Two, Dar Houma for Printing, Publishing and Distribution, 2005.
- Mansour Mohamed Ahmed, *The Coercive Fine as a Sanction for the Non-Enforcement of Administrative Judicial Rulings*, Dar Al-Jamia Al-Jadida for Publishing, Alexandria, Egypt, 2008.

Third: Theses and Dissertations

- Soumia Senoussaoui, *Administrative Judicial Jurisprudence*, Doctoral Thesis in Sciences, Specialization in Law, Faculty of Law, University of Algiers 1, Algeria, 2018-2019.
- Anis Fayçal Kadi, *The Rule of Law and the Role of the Administrative Judge in Consolidating It in Algeria*, Master's Thesis in Public Law, Administrative and Political Institutions Branch, Faculty of Law, Department of Public Law, University of Constantine, 2009-2010.

Fourth: Articles

- Hassina Cheroun; Abdelhalim Ben Mechri, "The Administrative Judge's Power to Issue Orders to the Administration: Between Prohibition and Authorization," *Judicial Jurisprudence Journal*, No. 02, Laboratory of the Impact of Judicial Jurisprudence on the Legislative Movement, University of Biskra, November 2005.
- Dalal Louchen; Fatiha Boughgal, "Judicial Security between Legislative Guarantees and the Risks of Judicial Jurisprudence," *Al-Baheth Journal for Academic Studies*, No. (12), University of Batna 1, January 2018.
- Aicha Ghenadra, "Modern Trends in the Powers of the Administrative Judge in the Enforcement of Judgments Rendered against the Administration," *Journal of Legal and Political Sciences*, No. 12, Faculty of Law and Political Science, University of El Oued, January 2016.
- Farida Meziani; Amina Soltani, "The Principle Prohibiting Judges from Issuing Orders to the Administration and the Exceptions Thereto under the Code of Civil and Administrative Procedure," *Al-Mofaker Journal*, Faculty of Law and Political Science, Mohamed Khider University of Biskra, No. 07, 2011.

Fifth: Judicial Decisions

- Decision No. 62279 of the Administrative Chamber of the Supreme Court, Case of (B.A.) v. Minister of Higher Education and Scientific Research, dated 15/12/1991, *Judicial Review of the Supreme Court*, No. 02, 1993, pp. 138-141.
- Decision No. 5638 of the Algerian Council of State, dated 15/07/2002, Case of (B.W.J.) v. Directorate of Agricultural Services of the Wilaya of Oran, published in the *Council of State Review*, No. 03, 2003, pp. 161-163.

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- ⁱ Ordinance No. 66-154 of 08/06/1966, containing the Algerian Code of Civil Procedure, Official Gazette (O.G.) No. 63 of 26/07/1966. (Repealed).
- ⁱⁱ Hamdoun Dhouadia, *Enforcement of Administrative Judicial Rulings in Algerian Law*, Dar Al-Houda for Printing, Publishing and Distribution, Algeria, 2015, p. 288.
- ⁱⁱⁱ Hamdoun Dhouadia, *Ibid.*, p. 289.
- ^{iv} Ali Omar Hamdi, *The Administrative Judge's Power to Issue Orders to the Administration – A Comparative Study*, Dar Al-Nahda Al-Arabiya, Cairo, Egypt, 2003, p. 07.
- ^v Hamdoun Dhouadia, *Op. cit.*, p. 289.
- ^{vi} Faiza Brahimi, *The Financial Impact of the Non-Enforcement of Administrative Judicial Rulings*, Part One, Dar Al-Houda for Printing, Publishing and Distribution, Algeria, 2013, p. 67.
- ^{vii} Lahcine Ben Cheikh Ath Melouya, *Selected Decisions from the Jurisprudence of the Council of State*, Part Two, Dar Houma for Printing, Publishing and Distribution, 2005, p. 17.
- ^{viii} Hamdoun Dhouadia, *Op. cit.*, p. 290.
- ^{ix} Hamdoun Dhouadia, *Ibid.*, p. 292.
- ^x Decision No. 62279 of the Administrative Chamber of the Supreme Court, Case of (B.A.) v. Minister of Higher Education and Scientific Research, dated 15/12/1991, *Judicial Review of the Supreme Court*, No. 02, 1993, pp. 138-141.
- ^{xi} Hamdoun Dhouadia, *Op. cit.*, pp. 292, 293.
- ^{xii} Decision of the Algerian Council of State, Third Chamber, Case of (B.R.) v. Wali of the Wilaya of Mila et al., Administrative Appeal, Index No. 140, dated 08/03/1999, (unpublished); cited by: Lahcine Ben Cheikh Ath Melouya, *Selected Decisions from the Jurisprudence of the Council of State*, Part One, Dar Houma for Printing, Publishing and Distribution, Algeria, 2003, p. 83 et seq. See also, in the same context, Decision No. 5638 of the Algerian Council of State, dated 15/07/2002, Case of (B.W.J.) v. Directorate of Agricultural Services of the Wilaya of Oran, published in the *Council of State Review*, No. 03, 2003, pp. 161-163.
- ^{xiii} Farida Meziani; Amina Soltani, "The Principle Prohibiting Judges from Issuing Orders to the Administration and the Exceptions Thereto under the Code of Civil and Administrative Procedure," *Al-Mofaker Journal*, Faculty of Law and Political Science, Mohamed Khider University of Biskra, No. 07, 2011, p. 125.
- ^{xiv} Dalal Louchen; Fatiha Boughgal, "Judicial Security between Legislative Guarantees and the Risks of Judicial Jurisprudence," *Al-Baheth Journal for Academic Studies*, No. (12), University of Batna 1, January 2018, p. 258.
- ^{xv} Soumia Senoussaoui, *Administrative Judicial Jurisprudence*, Doctoral Thesis in Sciences, Specialization in Law, Faculty of Law, University of Algiers 1, Algeria, 2018-2019, p. 21.
- ^{xvi} Farida Aberkane, "Trespass," *Forum of Judges of the Administrative Chambers*, Ministry of Justice, National Office for Educational Works, 1992, p. 104.
- ^{xvii} Decision No. 96 of the Administrative Chamber of the Supreme Council, Case No. 36, dated 30/05/1979, unpublished; cited by Hamdoun Dhouadia, *Op. cit.*, p. 295.

^{xviii} Farida Aberkane, *Op. cit.*, p. 99 et seq.

^{xix} Decision of the Administrative Chamber of the Supreme Council dated 25/03/1966; cited by Hamdoun Dhouadia, *Op. cit.*, p. 295.

^{xx} Decision No. 343 of the Administrative Chamber of the Supreme Court, dated 05/05/1995; cited in *Ibid.*, p. 296.

^{xxi} Decision of the Administrative Chamber of the Council of State, Second Chamber, Administrative Appeal, Case of the Algerian Automobile Distribution Company v. Municipality of Oran, Index No. 39, dated 01/02/1999, (unpublished); cited by Lahcine Ben Cheikh Ath Melouya, *Lessons in Administrative Disputes – Means of Legality*, 4th ed., Dar Houma for Printing, Publishing and Distribution, Algeria, 2009, p. 481 et seq.

^{xxii} Farida Meziani; Amina Soltani, *Op. cit.*, p. 125.

^{xxiii} Lahcine Ben Cheikh Ath Melouya, *Lessons in Administrative Disputes – Means of Legality*, *Op. cit.*, p. 480.

^{xxiv} *Ibid.*, p. 485.

^{xxv} Decision of the Administrative Chamber of the Supreme Court, dated 12/01/1993; cited by Hamdoun Dhouadia, *Op. cit.*, p. 299.

^{xxvi} Decision No. 009984 of the Council of State, dated 05/02/2002, (unpublished); cited by Chafika Ben Saoula, *The Problem of the Administration's Enforcement of Administrative Judicial Decisions – A Comparative Study*, Dar Houma for Printing, Publishing and Distribution, Algeria, 2010, pp. 352, 353.

^{xxvii} Hamdoun Dhouadia, *Op. cit.*, pp. 300, 301.

^{xxviii} Decision of the Council of State, Fourth Chamber, Case of (I.M.) v. Director of State Property and Real Estate Affairs of the Wilaya of Setif, Index No. 130, dated 03/05/1999, (unpublished); cited by Lahcine Ben Cheikh Ath Melouya, *Lessons in Administrative Disputes – Means of Legality*, *Op. cit.*, p. 491 et seq.

^{xxix} Mansour Mohamed Ahmed, *The Coercive Fine as a Sanction for the Non-Enforcement of Administrative Judicial Rulings*, Dar Al-Jamia Al-Jadida for Publishing, Alexandria, Egypt, 2008, p. 01.

^{xxx} Aicha Ghenadra, "Modern Trends in the Powers of the Administrative Judge in the Enforcement of Judgments Rendered against the Administration," *Journal of Legal and Political Sciences*, No. 12, Faculty of Law and Political Science, University of El Oued, January 2016, p. 234.

^{xxxi} Law No. 08-09 of 25/02/2008, containing the Code of Civil and Administrative Procedure, O.G. No. 21 of 23/04/2008, amended and supplemented by Law No. 22-13 of 12/07/2022, O.G. No. 48, issued on 17/07/2022.

^{xxxii} Hassina Cheroun; Abdelhalim Ben Mechri, "The Administrative Judge's Power to Issue Orders to the Administration: Between Prohibition and Authorization," *Judicial Jurisprudence Journal*, No. 02, Laboratory of the Impact of Judicial Jurisprudence on the Legislative Movement, University of Biskra, November 2005, pp. 233, 234.

^{xxxiii} Hussein Abdelwahid, *Enforcement of Administrative Judgments*, National Council Press, Cairo, Egypt, 1984, p. 15.

^{xxxiv} Hussein Abdelwahid, *Ibid.*, p. 07.

^{xxxv} Chafika Ben Saoula, *The Problem of the Administration's Enforcement of Administrative Judicial Decisions – A Comparative Study*, Dar Houma for Printing, Publishing and Distribution, Algeria, 2010, p. 352.

^{xxxvi} Aicha Ghenadra, *Op. cit.*, p. 235.

^{xxxvii} Example: CE, 26/12/1925, *Robiere*, Rec., p. 1065; cited by: Farida Meziani; Amina Soltani, *Op. cit.*, p. 129.

^{xxxviii} Decision of the Council of State, Fourth Chamber, Index No. 330, dated 22/05/2000, (unpublished); cited by Anis Fayçal Kadi, *The Rule of Law and the Role of the Administrative Judge in Consolidating It in Algeria*, Master's Thesis in Public Law, Administrative and Political Institutions Branch, Faculty of Law, Department of Public Law, University of Constantine, 2009-2010, p. 204.

^{xxxix} Decision of the Council of State, First Chamber, Administrative Appeal, Index No. 747, issued on 06/11/2000, (unpublished decision); cited by: Farida Meziani; Amina Soltani, *Op. cit.*, p. 130.

^{xl} Article 981 of the C.C.A.P. provides: "In the event of non-enforcement of an order, judgment, or judicial decision, where the enforcement measures have not been specified, the judicial authority before which the request is brought shall determine such measures and may set a time limit for enforcement and order a coercive fine."

^{xli} Hamdoun Dhouadia, *Op. cit.*, p. 329.

^{xlii} Aicha Ghenadra, *Ibid.*, p. 235.

^{xliii} Abdelkader Addou, *Guarantees for the Enforcement of Administrative Judgments against the Public Administration*, Dar Houma for Printing, Publishing and Distribution, Algeria, 2010, p. 146.

^{xliv} Article 987/1 of the amended and supplemented C.C.A.P.

^{xliv} Article 987/2 of the amended and supplemented C.C.A.P.

^{xlvi} Article 987/3 of the amended and supplemented C.C.A.P.

^{xlvi} By analogy, the administration's implied rejection may be inferred from Article 830/2 of the C.C.A.P. concerning administrative grievances against administrative decisions, which grants the administration a period of two months from the date on which the administrative grievance is submitted to respond thereto. If the administration remains silent, the date on which the two-month period expires shall constitute the date of an implied decision of rejection.

^{xlvi} This is what is provided for under Article 988 of the amended and supplemented C.C.A.P.