

THE EFFECTS OF CONSTITUTIONAL ENSHRINEMENT OF THE PRINCIPLE OF TWO DEGREES LITIGATION ON THE ALGERIAN JUDICIAL SYSTEM

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Abstract:

Contemporary judicial systems are based on the principle of litigation at two degree. This principle was reinforced by 2020's constitution shifting to a general constitutional principle to which all judicial bodies constituting the juridical system submit.

This amendment urged the legislator to undertake some modifications to the regular and administrative judicial hierarchies aiming to line them with the two instances principle.

In this context, the regular judiciary was revised regarding criminal matters resulting in the adoption of the second degree of criminal litigation. Moreover, specialized commercial courts were created as a first instance to deal with commercial conflicts pinpointed in article 536 bis in the civil and administrative procedure code.

Similarly, the administrative judicial pyramid underwent some changes. Indeed, the number of instances was expended by creating administrative courts for appeal as a second degree for administrative litigation, and limiting the state council's power in the its constitutional functions.

Keywords: *Litigation, court, appeal, dispute, second instance*

INTRODUCTION:

The principle of two degrees litigation is a prominent principle on which nowadays legal systems lean. Indeed it grants that the litigant whose judgment was rendered against gets a second opportunity to expose his case to a higher court that urges the first court to be cautious about their judgments apprehending cancelling or amending in the second instance⁽ⁱ⁾.

The practical accomplishment of this principle is completed by allowing the litigant to open his case in from of a higher or second degree to appeal his judgment. The second instance will review it considering facts, documents and laws, resulting in the upholding, modifying or cancelling the first judgment.

The Algerian legislator adopted this principle in the first civil procedure code in 1966⁽ⁱⁱ⁾ by insisting that courts determine appealable judgments before judicial council. The latter, appears in Article 6 of the contemporary civil and administrative procedure code⁽ⁱⁱⁱ⁾ pointing the principle is the ligation shall be at two levels unless the law provides otherwise .however, since 2016 the principle was the focus of the constitutional founder upheveling it in criminal matters as a constitutional principle^(iv).

Furthermore, the principle was expended in the 2020's constitutional amendment as Article 165/1 suggests the law guarantees litigation on two degree and determines the conditions and procedures for its application^(v) .

The reinforcement of the principle from a legislative to a general constitutional principle obliged the numerous juridical instances to be conforming to it. This article aims to demonstrate the different modifications adopted in the Algerian juridical system to align with the constitutional consecration of the principle of litigation at two degrees?

To achieve the purpose and solve the problematic, this article utilises a descriptive and analytical approach. To proceed, it studies the different texts of law that were a result of the constitutional consecration of the principle mentioned above. It demonstrates the reflection of the principle on

the regular judiciary system (first section) as well as on the administrative judiciary bodies(second section).

- Section I: the reflection of the principle of two degrees of litigation on the ordinary juridical pyramid

Aiming to reinforce the fairness of sentencing and to expand the opportunities of the litigant to appeal the judgment from a higher degree^(vi), the Algerian constitutional founder imposed the two degrees principle in criminal matters in the constitution amended in 2016. This action made the criminal procedure code and military code incompatible with the constitution, which forced the reconsideration of their respective rules regarding criminal matters. As a consequence, the legislator abandoned the final sentencing of criminal court and suggested a first instance judgment by establishing a second degree litigation in the criminal court. (first subtitle)

In addition, the constitution adopted in 2020 expanded the application of this principle of two degrees litigation to other bodies of regular judiciary by introducing some changes at the level of court and council, in which the prominent the creation of the specialised commercial court. (second subtitle).

A) subtitle: creation of an appeal in criminal matters

The two degrees principle ensures justice by granting a fair trial at two levels. On the one hand it exposes the litigation on the first degree to be judged; on the other hand it gives second chance to review the judgment from a higher court considering facts and documents. The higher court is constituted with qualified judges, which generates trust among the litigants, and enhance belief in justice^(vii).

The 2016's constitutional amendment transformed this procedural warranty to a constitutional warranty in criminal matters. By doing so, the constitution reinforced the warranties of a fair trial in criminal cases. In addition, the abandonment of the rule of primary and final judgement in criminal court opened the door for the possibility of appealing the judgment in the second instance.

This is the reason why, the Algerian legislator brought about important modifications on the Algerian judicial organization, creating a criminal court for appeal in the judicial councils. (1) as well as military court for appeal. (2)

1- The foundation of Criminal Court For Appeal

Being the most hazardous crimes, felonies have the most severe punishments that goes to death penalty and persecution. Hence, different legislations around the world offers a fair trial to the litigant on two degrees. The Algerian legislator was inspired by the French legislator in adopting an independent authority on the investigation on two degrees: the investigation judge and indictment chamber^(viii). in addition to, the obligation of investigation in felonies, granting the right to be defended; however, in the judgment degree, the Algerian legislator does not follow the French one, he relied on the rule of the first judgement of penal court as being primary and final. The latter, reduced the chances for the accused to have an equitable trial comparing to the French law, which ensures the reconsideration of cases in the assize court^(ix).

Nevertheless, aligning with the constitutional amendment the organic law 17-06 modified judicial organisation by creating criminal court for appeal through the stipulation of article 18, in addition to the criminal court. Moreover, the 17-07 law modified the code of criminal procedure to be in accordance with the new degree imposed by the constitution. The new procedure pinpoints that all accused criminals have the right to be judged twice: first in the primary criminal court, second before the criminal court for appeal^(x).

To ensure the application of this principle of two degrees litigation as showed in the comparative systems, the investigating judge and the public prosecution, who heard the case, are prohibited from sitting in the primary criminal court and in the court of appeal^(xi). Furthermore, the composition of these courts must be different.

However, studying the rules which regulate the criminal court of appeal, it can be said that there is a contradiction regarding the general meaning of principle of two degrees litigation and its meaning

the penal procedure code as stipulated in article 1 paragraph 8: “Everyone sentenced has the right to have his case heard by a higher judicial body.”

It is worth mentioning that the criteria composing the principles of two degree instance are absent in the criminal court of appeal. For instance, both trials occur in the same place. Moreover, the number of judges in both courts is the same. Thus, the process doesn't appear to be an appeal as defined by law but a simple second evaluation^(xii). The latter, happens before a body which is not superior to the first, a conclusion confirmed in article 322 bis 7:

-it made the appeal transfer the case within the limits of the declaration of the appeal.

-it allowed the criminal court of appeal to review the case.

-it limited the power of the criminal court of appeal in public judgment, regarding amendment, confirmation nor cancellation. Indeed, this power is attributed only in the civil action.

This means, the court of appeal does not have the power to control the previous court concerning public judgment^(xiii). This questions the warranties of the litigant to access a fair trial.

2- Creation of the military appeal boards

Adding to the criminal court of appeal and aligning with the constitution the two degrees instance was extended to the crimes committed by military and civilian employees in the ministry of national defence. The Algerian legislator adopted modifications on the code of military justice with law 18-14^(xiv). He introduced the principle, by creating two military instances:

-Military courts as first instance: set at the different military districts, and deals with crimes committed by military and civilian personnel of ministry of nations defence. It issues appealable primary instances within the rules established in the code of military justice.

-Military appeal boards of second instance: created at the level military district as the first instance. It aims to reconsider the case before a higher court, to ensure an equitable trial^(xv).

Yet just like the criminal court of appeal the military appeal board undergoes the same critics. It is considered as a revision of the trial not an appeal as defined by the comparative system.

B) Subtitle: The Expansion of the application of the principle at the level of tribunals and courts

The principle of two degrees litigation is a prominent principle in the civil judicial as stipulated in article 6 of law 08-09. Litigation shall be at two degrees unless the law provides otherwise. Applying this text, different divisions of the tribunal issue appealable primary judgment. However, this rule is subject to exception, for instance, divorce.

Following the 2020's constitutional amendment and the transformation of the principle to a general one, its application extended to the creation of new divisions, tribunals and chambers. (1) Thus the reduction of the exception to which the principle submits. (2)

1- The establishment of new judicial sections

The constitutional enshrinement of the principle brought about major several modifications by the adoption of the new organic law 22-10 regarding the judicial organisation^(xvi), and the modification of the law of civil and administrative procedure code by law 22-13. Indeed, it subjected the application of penalties to the two degrees principle. Furthermore, it created special commercial tribunals to deal with special and precise appealable litigations.

The first new section deals with the application of custodial penalties, which made the application of penalties which was an administrative decision to a judicial judgment on two instances respecting the two degrees principle. The first instance is represented by the judge of the application of penalties, who sits at the level of the court of the seat of the council to grantee the legitimacy of penalties application as claimed by the human rights organisation^(xvii).

The second instance is represented by the penalties application chamber, which sits in the court as a higher degree, which aims to monitor and control the decision made by the judge of the application of penalties.

To reinforce the judges specialisation and the adaptation of the Algerian judicial system to align with the international economic development, the Algerian legislator created specialised commercial tribunals in judicial councils^(xviii) imitating the French and the Egyptian legislators, who established this kind of tribunals in 1900^(xix) and 1940, respectively^(xx).



These kinds of courts are considered independent judicial bodies created in the frame of some judicial council. They are 12 specialised commercial courts set in: Bechar, Tamenrasset, Djelfa, Blida, Tlemcen, Algiers, Setif, Annaba, Constantine, Mostaganem, Ouargla and Oran^(xxi).

These tribunals look at commercial litigations specified in the code of the civil and administrative procedure, which are: litigations related to intellectual properties, company litigation, bankruptcy litigations, bank and financial institutions litigation with traders, international trade litigation, all maritime conflicts, air transport conflicts and insurance litigation. ^(xxii)

These tribunals were introduced as part of the process of developing commercial relationships, as they need a specialised commercial judiciary characterised by rapidity and efficiency. This commercial activity requires to be monitored by specialised judges assisted by specialised people who master commercial litigations mentioned above^(xxiii).

To grant more effectiveness, these courts follow flexible and fast procedures to remedy to the conflicts. However, they are the first instance that make primary and appealable judgments before the regional commercial chamber set in the judicial council.

The creation of the specialised commercial courts as a first instance bridges the way to appeal their decisions in the commercial chamber, set in the judicial council, and grants the application of two degrees litigation principle. Nevertheless, its rules are in opposition to the principle of specialization of judges and the aims fixed by the legislator in the creation of these courts. Indeed, in the first instance the case will be judged by specialised judges, yet their decision can be cancelled or modified by unspecialised judges who compose the commercial chamber at the level of the judicial council.

2- Reducing the exceptions that refrain the principle

The principle of two degrees litigation is one of the primordial principles that can be applied in the ordinary judicial bodies. The first degree court deals with civil, commercial, familial and co-working relationships litigations making appealable judgements. The principle appears in two manners: the litigant cannot access new applications before the appellate body, but only confirm his previous applications. The judges that make the court of appeal mustn't be the same that was in the first instance^(xxiv).

However, this principle was not general and absolute as it was subject to exception in which the tribunal produces primary and final non-appealable judgments including:

- The amount of the case does not exceed 200,000 DA
- Divorce, "Khul" and "Tatlik"^(xxv)
- Some social conflicts such as arbitrary dismissal. ^(xxvi)

After the consecration of the principle of litigation at two degrees, the amount of these exceptions decreased through activating the mechanism of plea of unconstitutionality^(xxvii) brought by the Algerian legislator in 2016's constitution. By applying this mechanism several cases were engaged before the constitutional council and the constitutional court, which substituted the council. To exemplify:

-challenging the unconstitutionality of article 33 of civil and administrative procedure code, in which the court issues primary and final judgements, since it does not juxtapose with article 165 of 2020's constitution. Moreover, it does not ensure two chances and eventual review of judgement. Hence, the constitutional council declared that this article is unconstitutional^(xxviii), which urged the legislator to modify it with 22-13 law adjusting law 08-09 of the civil and administrative procedure. As a result, article 33 stipulates that the court shall decide on all cases with appealable judgments. On the other hand, the constitutional council or constitutional court treated other cases concluding that the articles questioned are not unconstitutional, for instance,

Challenging the unconstitutionality of article 633 of law 08-09 on the code of civil and administrative procedure, that states that the decision of the president of the court which deals with cases with problems of execution are not appealable. Despite this fact the constitutional court considers this article does not contradict the constitution, because these decisions are not judgment but orders that does not affect the origin of the right^(xxix).



The Challengings against article 73/4 of law 90-11 related to relations of work^(xxx), which stipulates that the tribunal cancels the decision of arbitrary dismissal with primary and final judgment. It obliges the employer to pay compensation to the employee. The constitutional court considers repeatedly this article as being confirm with constitution. It is true that this article does not ensure a second chance, it preserves constitutional rights that are a priority to preserving public order^(xxxi).

Section 2: The Reflections of the Constitutional Consecration of the Principle of Litigation at two Degrees on the Administrative Judicial Pyramid

In the constitution of 1996 the Algerian constitution founder adopted the duality of judicial system^(xxxii). He established a judicial system based on two pyramids. In addition to the ordinary judicial pyramid, which focused on ordinary litigations, he created the second pyramid, which focused on administrative litigations. The administrative judicial pyramid is composed of two instances: the administrative court as a first instance^(xxxiii) and the state council as a second instance for appeal and cassation.

However, the review of the administrative judicial pyramid was necessary after the consecration of article 165/3 of the 2020's constitutional amendment and the generalisation of the principle of litigation at two degrees aligning with article 179/2 of this constitution, which claims the state council, is the highest administrative judicial body that evaluates the work of administrative court and administrative appeal court.

Administrative litigations are judged in the two different instances. This is the reason why new appealable administrative courts are created, alongside administrative courts, which is considered to be the first degree.(first subtitle). Moreover, the state council's power decreased, since it is the body that evaluates the administrative judicial bodies, and appeal was ceased for them.(second subtitle).

A) Subtitle: Creation of Administrative Appeal Courts

Just like the composition of the regular judicial pyramid and to align with the administrative judicial pyramid with the principle, administrative appeal courts were created as a second instance alongside the administrative courts (1), which are the first instance to consider administrative conflicts In the frame of the new courts of appeal, the Algiers administrative court of appeal is given exclusive prerogatives. (2)

1- Administrative Courts of Appeal as A Second instance for Administrative Litigation

Before the adoption of 2020's amendment, the administrative judicial pyramid was made of two instances: the administrative court as a first instance which judges administrative litigations with primary appealable judgement, and the state council, which is a second instance and cassation instance. This one compressed the appeal power and cassation power, which made it at once the adversary and the judge. Therefore, the principle of litigation at two degrees was not ensured in the administrative judicial pyramid^(xxxiv).

Nevertheless, aligning with what was stipulated in article 165/3 and 179/2 of 2020's constitution, it was required to put back the administrative judiciary to the right procedural lane, and bridge the way for the litigant to expose his administrative conflict before two different instances. the administrative court as a first instance and the administrative appeal court as a second chance to review the same conflict before this higher court that is independent from the cassation authority.^(xxxv)

Hence, the Algerian legislator created, with article 29 law of 22-07 related to the judicial division, six administrative courts of appeal set in Algiers, Oran, Constantine, Ouargla, Tammanrasset and Bechar.^(xxxvi)

The above mentioned courts are said to be appealing courts for the decisions and judgements made by administrative courts, and are specialised in dealing with cases that are attributed to them by specific laws

The appealing administrative courts have never been part of the Algerian judicial system. They have been introduced to align the administrative body with the 2020's constitutional amendment aiming to reduce weight on the state council to be freed for its main mission that are constitutional considering it being the evaluator of the administrative judiciary bodies' activities.



Being the highest administrative court, the court of appeal is differently composed, yet similar to the judicial council present in the regular judicial pyramid. Courts of appeal are organised in forms of chamber. However, unlike the judicial council, the number of chambers is not determined by law but by the president of the court.

Comparing the administrative appeal courts and the judicial council that are said to be equal, it can be deduced that the number of courts of appeal is remarkably less than the number of the judicial councils. Indeed, there 58 judicial councils but only 6 courts of appeal.^(xxxvii)

Moreover, an unequal distribution of territorial jurisdiction of these courts can be pointed. For instance: the territorial competence of the Algiers court of appeal extends to 10 administrative courts of appeal, Oran appeal court extends to 13 courts, Constantine courts of appeal extend to 15, Ouargla's extend to 11 and Tamanrasset's extend to only 3 administrative appeal courts. Limiting the number of administrative courts of appeal to 6 courts furthers administrative justice form citizens, and does not serve speed in adjudicating case.

This is the reason why, we propose to increase the number of administrative courts of appeal to balance the regular judicial pyramid and the administrative judicial pyramid.

Although its embodiment seems complex as it needs huge material and human resources especially qualified judges with rank of adviser, the state must consider it and work to achieve it gradually. France which is the founder of administrative law has 9 administrative courts of appeal for 42 administrative courts^(xxxviii). An example that shows the complexity of balancing the two different courts yet this procedure will reduce regionalism and work to approximate justice form the citizen comparing to the Algerian surface.

2- The Exclusivity of prerogatives of Algiers Administrative Court of Appeal

The six administrative courts of appeal were defined by the organic law 22-10, which incorporates the judicial organization, as an appeal side in judgments issued in administrative courts. However, in law 22-13, that modified law 08-09 incorporating the law of civil and administrative procedure, the Algiers administrative court of appeal was given a particular status. In fact, exclusive prerogatives were attributed to this court. For instance:

- Adjudication as a first degree in cases of cancellation, interpretation and evaluation of legality of administrative decisions issued by central administrations, was dealt with by the state council with primary and final judgments before the creation of this court. This prerogative was ceased form the state council and was attributed to the Algiers administrative court of appeal not as being a court of appeal but a court of first instance. These judgments would make a subject of appeal before the state council since it is the second instance.

- Adjudication as a first instance in trials against the decisions of national public bodies and national professional organizations mainly independent administrative authorities. The litigations generated by these authorities were considered to be within the ones dealt with by the state council relying on special laws.

Following this power transfer, the legislator was required to modify the different texts related to the independent administrative authorities. Indeed, it is necessary to retrieve the prerogatives attributed to the state council and to attribute them to the Algiers court to avoid unconstitutionality and conflict between the state council and the administrative court of appeal. Similar to what the he did with the new monetary and banking law, in which the Algiers administrative court of appeal is in charge of the first instance in cancelling decisions issued by banking commission^(xxxix). An action which was mainly the mission of the state council. ^(xl)

b) Subtitle: diminishing the power of the state council

The state council was established in the 1996's constitution. Its main mission is to assess the decisions and judgments issued by the administrative judicial bodies, and grant the respect of law as well as unify administrative jurisprudence. To regulate these prerogatives, the legislator adopted the organic law 98-01 that ensured having many other judicial and advisory prerogatives^(xli).

The advisory tasks won't be the subject of focus of this article as it does not serve our topic. However, this article concentrates on the judicial prerogatives attributed to the state council.



The judicial prerogatives attributed to the state council seem to be variant and interrelated. It is considered to be the first instance and the appeal instance and the cassation authority. This diversity and interrelationship negatively affects the basic principles of litigation and yields a violation of the litigation at two degrees. ^(xlii)

To be in line with constitution it was required to reduce the state council prerogatives. Consequently, the state council lost the quality of court of appeal and the quality of first and final instance (1). This action was made to free the council to its main constitutional duties as a constituent body for both the administrative court and the court of appeal. (2)

1- Removing the Quality of First and Second Instance for the State Council

The organic law 98-01 allowed the state council to compress three different powers: first instance in some administrative litigation, second instance for all appealable decisions issued by the administrative court in other litigations and cassation in all final decisions issued in the administrative judicial pyramid. This diversity of prerogatives was not in the first original version of this organic law. Indeed, it was brought about by the committee on legal and administrative Affairs and freedom^(xliii). This proposal was meant to hide the lack of experience of administrative judges.

Yet, after the application of Article 165/2, 179/2,3 and 5 of the present constitutional amendment, this combination and concentration of power of the state council was reviewed. As a result, the litigant's chances in administrative conflict were distributed on several instances at the level of different administrative bodies.

This is the reason why, the organic law 22-11 modified the organic law 98-01 related to the regulation of the state council. It diminished the prerogatives of the state council in line with the principle of litigation at two degrees and supporting the constitutional status of this council considering it as the highest judicial administrative authority^(xliv).

The organic law 22-11 removed the quality of first instance from the state council in cases of cancellation, interpretation and evaluation of the legality of administrative decisions issued by central administrative and decisions issued by national public bodies. This competence was attributed to the Algiers administrative court of appeal as have been already mentioned.

The same organic law, removed either the state council's quality of court of appeal as a total prerogative. Indeed, the power of considering appeal regarding judgments issued by the administrative courts was eliminated in favour of the administrative courts of appeal. Despite the fact that the power to reconsider judgement issued by administrative courts was extracted for the state council, the state council did not lose entirely the quality of the court of appeal. For instance law conserved this quality in some specific cases exclusively pointed in:

- appeal against decisions issued by the Algiers administrative court of appeal regarding cancellation, interpretation and evaluation of the legality of administrative decisions issued by central administrative authorities.

- appeal against decisions issued by the Administrative Tribunal of appeal regarding decisions of the national public bodies and national professional authorities.

Despite the fact that these exceptions make the state council combine once again two different tasks: the quality of court of appeal and the quality of the court of cassation^(xlv), it does not affect the litigant's right to resubmit his case before a higher court that will reconsider his affair with facts and law. The first instance is the Algiers court of appeal, and the state council is the second instance. This appeal has a conveyor effect which stops execution of the judgement issued by Algiers court of appeal in addition, these exceptions allow the state council to monitor the work of the Algiers court of appeal and to hold or cancel their judgment that is the application of the principle of litigation at two degrees.

2- Rehabilitation of the Original Competence of the State Council

The creation of the administrative courts of appeal alongside the administrative courts as a first instance in administrative litigation reduced the burden on the state council and rehabilitated its original competence as the top the administrative pyramid and a side for cassation.



The role of the state council is focused on the assessment of the final decisions and judgements issued by the administrative courts as well as the administrative courts for appeal to grant the respect of law. In addition, the state council unified jurisprudence in administrative matters^(xlvi).

The separation between the appeal side and cassation side in administrative matters allowed reducing the burden and pressuring on the state council, which had a positive impact since it has the opportunity to focus on its constitutional prerogatives as a cassation court. Moreover, it answers the question that was asked since the creation of the council regarding its real judicial nature^(xlvii).

Furthermore, this separation reinforced the role of the state council in cassation and to extend his prerogatives by cancelling the imposed limitation regarding cassation in primary and final decisions. Since decisions were made in the state council, cassation seems to be a paradoxical as it puts it in the position of the opponent and the judge. Moreover, the state council was asked to do self-assessment and to evaluate its own decisions^(xlviii), which eliminates the possibility of cassation. However, the elimination of the right of cassation in these decisions diminished the rights of the litigant in administrative matters.

CONCLUSION

The constitutional consecration of the principle of litigation at two degrees can be considered as a major constitutional reform, which reinforced the litigant's chances to have an equitable trail in all kinds of litigations. This reform allowed to remedy to several weaknesses detected in the Algerian judicial organisation as well as the procedures related to it.

This consecration urged the legislator to adopt several reforms and modifications regarding the Algerian judicial organisation. He created some new judicial instances similar to those in the modern judicial systems.

The constitutional consecration of the principle of litigation at two degrees offered the litigants the opportunity to expose their litigations before a second instance to review the affair considering facts and laws. This action resulted in the extension of the application of the principle two degrees: form civil cases to criminal cases after the creation of the criminal court of appeal, military cases by the creation of the military boards of appeal, commercial conflict after the creation of specialised commercial courts as first instance, whose decisions are appealed in the commercial chamber setting in the judicial council.

The effects of the consecration of the principle are not limited to the ordinary judicial pyramid. It affected either the administrative judicial pyramid by creating the administrative courts of appeal as second degree for administrative litigations alongside the administrative courts which represent the first instance. The state council has undergone some major modifications. Indeed, it lost its quality as a court of appeal and first instance to free it for its main constitutional tasks as a body of cassation.

Moreover, the consecration of this principle promoted the activation the mechanism of challenging unconstitutionality regarding several judicial rules, which limits the constitutional right in exposing the conflict before two different instances a primary and a high court. This is the reason why the constitutional body got involved in many cases cancelling Article 33 of code of administrative and civil procedure, since it opposes the constitution specifically article 167 and does not line with the principle of equality between citizens for having judicial protection.

Despite the importance of the reforms yielded by the constitutional consecration of the principle of litigation at two degrees, many weaknesses can be raised:

- the necessity of reviewing the composition as well as the seat of the criminal court of appeal to reinforce its status as a higher judicial instance superior to the criminal court of first instance. Furthermore, strengthen its competences in appeal regarding public proceedings.

- establishing six administrative courts of appeal, which is a prominent action in judicial reform. It facilitates the procedure for litigants and the approximation of instance of appeal as they do not have to travel far. However, the number of these courts seems insufficient comparing with the

number of judicial councils. This is why it is necessary to gradually create additional courts that will bring the court of appeal closer to litigants.

The creation of the specialised commercial courts appears to be a prominent step as it allows reassuring the economic operator and promotes trust among them and the Algerian judicial system. This operation has a positive impact on the economic relationships and on the business climate. Yet, the possibility of achieving this ambition is significantly reduced as the number of courts is limited does not allow such accomplishment. Appeal seems inefficient considering that judgments that rendered by these commercial courts will be appealed by a non-specialist judge. Therefore, we propose a gradual creation of specialised courts of appeal to grant a second instance considering the state's budget.

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^{xxii} - Art 536 of Law N°. 08-09 of the code of the Civil and Administrative procedure code, amended and completed. op cit.

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