



THE LEGAL NATURE OF THE ADMINISTRATIVE DISTRICTS AND MUNICIPAL DELEGATIONS

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Abstract:

The research on the legal adjustment and the legal nature of the administrative district require focus on its position in the state administrative hierarchy, i.e., identifying its position within the general administrative body. In this regard, in its assignments of the administrative tasks, the state takes into consideration its political, economic, cultural, and social circumstances, and tries to establish diverse administrative institutions that adopt its political and democratic principles. In this regard, the municipal delegations are represented by the municipal delegates to link the citizens and the municipal public facilities, improve the work of these facilities, launch initiatives that enhance the living and economic standards, and monitor the issues that affect the public facilities to report them to the mayors.

Keywords: administrative districts; municipal delegations; local administration; Wali; mayor.

Introduction:

The management of the territorial communities is one of the main political, economic, and social issues for the state, because these communities are a space for popular participation and the starting point of any local and national developmental project. Therefore, Algeria gave them much attention through constitutionalizing and regulating them in its legal system since independence. Amid the international changes of the 20th century, the administrative reforms turned into a necessity to end administrative corruption and achieve a sustainable economic development, mainly in the third world states that suffer different problems caused by the administrative deficiency.

Under the administrative reforms policy initiated by the state to upgrade the activity of the local administration and bring it closer to the citizen, a new administrative territorial regulation has been established at the local level, giving birth to the administrative districts, delegations, and municipal annexes. The scientific and practical importance of this study manifests in the fact that the local administration is the closest state legitimate representative to the citizen that focuses on his needs. In addition, the study covers the reforms, started by the higher authorities, in the local administration regarding its regulation, law, function, etc. Moreover, the local and international institutions show increasing interest in the local administration and the methods of its development, regulation, and restructuration.

In addition to the territorial communities provided for by the constitution, namely the Wilaya and the municipality, and in the light of the administrative and political reforms, the Algerian legislator insisted on establishing administrative units, called the administrative districts. Based on what was said, our problematic can be stated as follows, “**what is the legal nature of these administrative districts and municipal delegations and annexes?**” To answer this question, we shall tackle the following points:

Chapter one: the administrative district

Section one: the nature of the administrative district.



Section two: the administrative and structural regulation of the administrative district.

Section three: the prerogatives of the delegate Wali.

Chapter two: the municipal delegations and annexes

Section one: the concept of the municipal delegations and annexes

Section two: the establishment and limits of the delegations.

Section three: the regulations and functioning of the municipal delegations and annexes

Chapter one: the administrative district

These districts are one of the manifestations of administrative decentralization. They aim at alleviating the heavy pressures of the citizens in some Wilayas, mainly the vast Southern ones where the Wilaya headquarters, the city hall, and the neighboring Wilayas are far, and security witnesses instabilities, what requires special administrative and security measures to preserve the public policy and establish peace. In this regard, these districts are one of the manifestations of administrative decentralization. This chapter tackles the administrative district and focuses on three sections, namely the nature of the administrative district, the administrative and structural regulation of the administrative district, and the prerogatives of the delegate Wali.

Section one: the nature of the administrative district:

We shall give a brief definition of the administrative district and, then, move to its characteristics.

Part one: The definition of the administrative district:

Despite that the Algerian legislator has defined the administrative district, the Presidential Decree 15-140 of 27-05-2015 on the establishment of administrative districts in some Southern Wilayas, and the Executive Decree 15-141 of 28-05-2015 on the regulation and functioning of these districts show that this district is an administrative decentralized unit that locally represents the centralized authority¹. Thus, it is part of the Wilaya and a mere technical administrative entity under the centralized system².

First: The dictionary definition:

It is an area of a country or city, especially one characterized by a particular feature or activity³. It is also known as the province, territory, or Wilaya. In Algeria, it is run by the Wali .

Second: The jurisprudent definition:

It is an administrative unit that had been defined by different parties. George Qoudil defines it as a protected community, not an administrative region, which has gained the moral personality since 1830 and turned into the core unit of the state territorial administration. It enjoys the moral personality and independence⁴. This definition considers it a local community and denies the nature of an administrative unit, and attributes to it the moral personality and financial independence. In addition, Issam al Debs defines it as an administrative unit resulting from the local administrative

¹ Kessir Amel, the mechanisms of updating the local administration in Algeria, PhD thesis in laws, administrative law, Faculty of Laws and Political Sciences, University of Batna 01, 2020, p. 56.

² Feridjet Ismail, the legal system of the territorial communities in Algeria, journal of legal and political sciences, University of Hamma Lakhder, el Oued, issue 12, 2016, pp. 205-222.

³ Oxford Languages, <https://languages.oup.com/google-dictionary-en>

⁴ George Qoudil, the administrative law, trans. Mansour al Qadi, Vol. 02, the university institution for studies, publication, and distribution, Beirut, 2001, p. 351.



division, and as the oldest administrative unit in the centralized regulation or local administration. He adds that it does not enjoy the financial independence⁵.

In Algeria, we can say that the administrative districts are administrative units resulting from administrative and political reforms and the administrative division of many Wilayas. Each administrative district holds one or many Dairas and municipalities. In addition, they do not enjoy the moral personality and financial independence because they are part of the original Wilaya assigned with coordination and monitor of their municipalities. They aim at improving the public services, satisfying the citizens' demands, and alleviating pressure on the original Wilaya.

Section two: the administrative and structural regulation of the administrative district:

In promoting Dairas into delegate Wilayas, the authorities relied on 04 standards:

First: the distance from the center of the Wilaya:

This is the most common issue for the citizens in the Southern Wilayas like Ain Saleh that is 750 Km far from Tamanrasset, causing the citizens to travel long distances to extract their documents. The same applies to Timimoune and Bordj Badji Mokhtar, which are 1000 Km far from Adrar.

Second: The frontal line:

Controlling the frontiers is imposed by security and sovereignty considerations. Due to the strategic specificity, the state had to reinforce its existence in the regions that witness security alerts and need fast decisions.

Third: The population size:

The population of the Daira must exceed 40000, with exceptions regarding some Wilayas whose populations do not exceed 25000, like In Salah. This standard has not been the basis in establishing administrative districts in the Southern Wilayas whose populations are less those in the North and High Plateaus in 2015, unlike the geographical standard that is used in the Southern administrative districts. The standard of population size has been considered in the establishment of 14 administrative districts in the Wilayas of Blida, Algiers, Annaba, Oran, and Constantine by the Presidential Decree 18-337⁶. In this regard, each of these Wilayas have a population density that exceeds the average, raising the necessity of new administrative districts.

Fourth: The number of municipalities:

It is among the most important standards, as some Wilayas have 50 to 60 municipalities while others have a few. This variance is found in comparing the Southern Wilayas with those of the North and of the High Plateaus. For instance, Algiers has 57 municipality while Ouergla has only 21⁷. Generally speaking, the administrative division is affected by the state objectives and the general policy, as some states may take one standard during the administrative division while others may take many.

Part three: The causes and motives of establishing the administrative districts:

Different causes and circumstances pushed the centralized authority to establish delegate Wilayas in the administrative division made by President Abd al Aziz Bouteflika. This decision was followed by wide changes in Walis reshuffle for different causes, namely:

- Enforcing and fostering decentralization and ensuring the efficiency of the institutions and entities.

⁵ Issam Ali al Debs, the administrative law, book 01, culture house for publication and distribution, Jordan, 2014, p. 326.

⁶ See Articles 01 and 02 of the Presidential Decree 18-337, pp. 04-05.

⁷ Jamal Zidane, the management of the Algerian local development, Lamtabaa house for publication and distribution, Algeria, 2014, p. 19.



- Decreasing the administrative and democratic burdens that hinder the satisfaction of the citizens' needs.
- Bringing closer the administration to the citizen to satisfy his needs.
- The fair distribution of development and wealth.
- The enforcement of a real local development that shall meet the needs and aspirations of the citizens.
- Facing the issues raised by the wide geographic surfaces.
- Consolidating security in the frontal cities and regions.
- Satisfying the administrative and economic needs of the citizens, which are hindered by the far distances from the center of the mother Wilaya⁸.

Section two: the administrative and structural regulation of the administrative district:

The delegate Wali works under the control of the Wali of the original Wilaya. He is equipped with an administration that is made up of:

- A general secretariat managed by a general secretary.
- An office managed by an office president.
- A delegate directorate for organization, public issues, and local administration managed by a delegate director, according to Article 08 of the Presidential Decree 15-140.

In addition, the delegate Wilaya has an executive entity called the Council of the Administrative District. It is managed by the delegate Wali and the presidents of the municipal popular assemblies MPAs as advisors⁹.

Section three: the prerogatives of the delegate Wali:

The delegate Wali is assigned with:

- Enforcing the applicable laws and the decisions of the court and the Wilaya assembly.
- Enforcing the proceedings of the Wilaya popular assembly WPA in the administrative district.
- Preserving the public policy and security, and suggesting to the Wali any measures he sees necessary.
- Initiating the operations of rehabilitating the public departments and institutors in the district.
- Preparing, executing, monitoring, and ensuring the good functioning of the public programs for equipment and investment.
- Ensuring the respect of the organizational conditions regarding construction, mainly the environment preservation.
- Launching motivational initiatives to upgrade employment, professional integration, and any work that motivates growth¹⁰.
- Sending a monthly report to the Wali about the development of the activities and sectors of the administrative district.

Based on what was said, we find that the administrative districts are administrative units part of the original Wilaya, and are a manifestation of decentralization. They are presided by a delegate Wali and have been established after the political and administrative reforms in 10 Southern Wilayas in 2015 by the Presidential Decree 15-40. Then in 2018, some big Wilayas witnessed the

⁸ George Qoudil, op. cit., p. 146.

⁹ The Presidential decree 15-140 of 27-05-2015 on the establishment of administrative districts in some Wilayas and the identification of the related rules.

¹⁰ Ibid, pp. 03-04.

establishment of new ones based on 04 standards, namely the geographic standard, the population size, the number of municipalities, and the sovereignty. As for the motives and causes, they are political, administrative, economic, and social. Such measures aim at upgrading the public service, achieving a sustainable local development, and embodying the territorial development strategy. In this context, the administrative districts are characterized by the moral personality, the financial independence, and the absence of an elected assembly, unlike the Wilaya and municipality, which are part of the territorial communities.

Chapter two: the municipal delegations and annexes:

This chapter shall present the concept of the municipal delegations and annexes, cover the establishment and limits of the delegations, and end with the regulations and functioning of the municipal delegations and annexes.

Section one: the concept of the municipal delegations and annexes:

The administrative districts have delegate administrations that are one of the administrative decentralization aspects. They exercise a big role in the local development and represent the state locally. In this context, Article 02 of the Executive Decree 15-141 provides that the administrative district, under the authority of the delegate Wali, includes the public administration, the delegate administrations, and the assembly of the administrative district.

Part one: Definition of the municipal delegation:

Articles 133 and 144 of Law 11-10 of 22 June 2011 on the municipality, and Decree 16-258 of 10-10-2016 on the methods of establishing the municipal delegations, their limits, regulations, and functions state that the municipal delegation is a local administrative decentralized entity assigned with ensuring the management of the public facilities to satisfy the economic, social, and cultural needs of the citizens, and providing the material, financial, and human potentials and tools to ensure the achievement of these goals, in accordance with its competencies and territorial limits.

Part two: definition of the municipal delegation:

Article 138 of the municipal law 11-10, and Articles 18 and 19 of the Presidential Decree 16-258 on establishing the municipal delegations, their limits, regulations, and functions show that the municipal delegation is a local decentralized administrative entity in charge of coordination between the main headquarters of the municipality and another part of it that is distant. Its main competency is the administrative public facility¹¹.

Section two: the establishment and limits of the delegations:

The government decided to establish municipal delegations to alleviate the pressures on the municipalities and bring the citizen closer to the local administrative structures, taking into account the necessity of the public service. In this regard, the municipalities of Algiers are an exception. The Executive Decree issued in the last official gazette of 2019 identified the methods of establishing the municipal delegations, their limits, their regulation, and their functioning. In addition, it provided for considering the harmony of the region regarding the construction aspects, the nature of needs or public facilities, the wide geographic surface, the secondary gatherings distributed in the region, and the scope of influence to ensure the efficiency of the public facility.

The Decree allowed the municipalities not to include all their territories in the municipal delegations, and granted the competency of their establishment to the MPA based on a prior study made by the municipality in collaboration with the competent decentralized entities. As for the methods of organizing and functioning of the municipal delegations, the municipal delegate

¹¹ Law 11-10 of 22 June 2011 on the municipality, official gazette 37 of 2011, 03-07.



exclusively manages the public facilities of the municipality by the power delegated to him by the mayor; with the possibility of substituting the delegate by the mayor¹².

Section three: the regulations and functioning of the municipal delegations and annexes

Part one: the regulations and functioning of the municipal delegation:

The previous Decree provides that the municipal delegates, under supervision of the mayors, manage the work of the municipal facilities that are part of the delegation competencies, and launch initiatives that may improve the living conditions and the socioeconomic development. Besides, they monitor the issues of the public facilities assigned to them provided that the mayor knows about them without delay. In order for the mayors to be aware of the functioning of the municipal delegations, the delegates submit monthly reports about the activity of the municipality and the management of the assigned public facilities. In addition, they may get in touch with the citizens to know about their problems and report them to the mayor. Besides, they are assigned with monitoring the departments of the civil status, the transportation, the public hygiene, the environment protection, the roads maintenance, the public lights, the leisure spaces, the school canteens, the sport and cultural institutions, the green spaces, and the cemeteries.

Furthermore, the municipal delegates are assisted by an agent appointed by the mayor based on suggestion of the general secretary of the municipality. The agent is chosen from the technical and administrative executives for his experience and competency. He coordinates the work of the employees of the municipal delegations, and informs the general secretary of the municipality about the states of the transferred employees and the use of the material tools. The municipal delegation is organized according to the nature of its facilities into administrative, technical, social, and cultural departments¹³.

Part two: The regulations and functioning of the municipality:

The municipal delegation is assigned with the administrative public facilities. The proceedings on the establishment of the municipal delegation are sent with a report that shows the causes of its establishment and the financial effects to the Wali. Besides, the proceedings are published in the city hall and the public spaces to inform the citizens. In addition, different tools are used to inform the citizens, according to Article 138 of Law 10-11 of 22 June 2011. The delegate supervises the administrative public facility and can sign documents tanks to the authority delegated by the mayor. In this regard, the mayor can substitute the municipal delegate in his tasks. When the municipality establishes municipal delegations, the delegations are automatically annexed to the municipalities they are located in. In this context, the new municipalities must adopt their regulations with the provisions of this Decree by a Decree from the Minister of the Local Communities¹⁴.

Conclusion:

Based on what was said, the pivotal role of the territorial communities, namely the municipality and Wilaya, manifests in managing the public facilities and contributing to local development. In this regard, the state worked to support the local administrative decentralized entities to bring the citizen closer to the public facilities, improve the quality of the public services, and reduce the bureaucratic obstacles through the reforms adopted by the Algerian government, which manifested in the establishment of administrative districts and municipal delegations and annexes.

Our findings show that:

¹² The Executive decree 16-258 of 10-10-2016 on the methods of establishing the municipal delegations, their limits, their regulation, and their functioning, official gazette 61 of 19 October 2016.

¹³ Ibid, pp. 13-14.

¹⁴ Ibid, p.14.



- The administrative district is an aspect of administrative decentralization, and is not a territorial community because it does not have its characteristics.
- The administrative districts have neither the moral personality nor the financial independence.
- The administrative districts aim at alleviating the burdens of the Wilaya, bringing the administration closer to the citizens, and improving the public services to achieve a local development.
- There is an interference in the competencies of the delegate Wali and the presidents of Dairas, what may lead to issues in competencies and hinder the administrative work.

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