

Law No. 41-90 establishing Administrative Courts

Reference: Dahir No. 1-91-225 of 22 Rabii I 1414 (10 September 1993) promulgating Law No. 41-90, supplemented by Law No. 80-03 establishing Administrative Courts of Appeal

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Practice areas: Administrative law, Litigation, arbitration and mediation

Law 41-90 gives the Administrative Courts jurisdiction over applications for annulment on grounds of excess of power, disputes relating to administrative contracts, actions for compensation for damage caused by the administration, and tax, electoral, pension and expropriation disputes.

Jurisdiction

- Applications for annulment on grounds of excess of power against decisions of administrative authorities (Arts. 8 and 20).
- Disputes relating to administrative contracts (public procurement contracts, concessions) and actions for compensation for damage caused by the acts or activities of public bodies (Art. 8).
- Tax disputes, expropriation disputes and the individual status of civil servants (Art. 8).
- Applications against decrees and decisions of the Head of Government fall within the jurisdiction of the Court of Cassation (Art. 9).

Procedure for an application for excess of power

- Time limit of sixty days from publication or notification of the decision (Art. 23).
- A prior administrative or hierarchical appeal interrupts the time limit; the administration's silence for sixty days amounts to a rejection (Art. 23).
- Written application signed by a lawyer (Art. 3), setting out the legal grounds: lack of competence, procedural defect, misuse of power, breach of the law.
- A stay of execution may be requested on an exceptional basis (Art. 24).

Means of recourse

- Appeal before the Administrative Court of Appeal within thirty days (Law 80-03).
- Appeal in cassation before the administrative chamber of the Court of Cassation.

Key articles

ART. 8

The Administrative Courts have jurisdiction to rule, at first instance, on applications for annulment on grounds of excess of power brought against decisions of administrative authorities, on disputes relating to administrative contracts and on actions for compensation for damage caused by the acts or activities of public bodies.

ART. 20

Any administrative decision issued by an authority lacking competence, vitiated by a procedural defect, a misuse of power, a lack of reasons or a breach of the law, gives rise to a right to apply for annulment on grounds of excess of power.

ART. 23

An application for annulment on grounds of excess of power must be filed within sixty days of the publication or notification of the contested decision.

Points to watch

- The 60-day time limit is strict: establish the exact date of notification and act without delay.
- A well-drafted administrative appeal sometimes settles the dispute without litigation and preserves the time limit for court proceedings.
- In public procurement matters, a prior complaint to the National Public Procurement Commission is a useful lever before going to court.

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