The Responsibility of The Administration for Compensating Its Illegal Decisions: A Comparative and Analytical Study

Asma Nuri Ibrahim

Assistant Lecturer, Imam Al-Kadhim College of Islamic Sciences University.

Email: asmaaibrahem@gmail.com

Abstract

The administration follow a broad rule of legality in all of its acts. However, if there are no legitimate mechanisms for citizens to oversee the government as it fulfills its tasks, this subordination will remain a theoretical concern. It is possible that the administration actions will hurt others in practice. Its need to compensate the affected by offering him a kind of compensation in exchange for the damage stems from its responsibility for the action. In other words, the activity of public persons may generate a right for the affected person to resort to it consensually, otherwise, in court, he will demand fair and appropriate compensation for the damages he sustained. The judiciary then investigates the public authority activities. If it determines that there is something improper with this action, it will hold responsible by awarding him the compensation required to make up for the damage. Administrative responsibility attempts to restore the economic balance between the person and the government for the damage he has experienced as a result of the latter's actions.

Keywords: administrative responsibility, administrative decisions, compensation, reparation, the principle of legality.

Introduction:

The administration carries out its duties on a regular basis through its most essential methods which is the administrative decisions that establishes its responsibility if anything goes wrong and then requires it to compensate. If the judiciary determines that a mistake occurred in the administration action, it will be judged to hold it accountable by determining the amount of compensation required to compensate for the damage. As a result, administrative accountability tries to restore the economic balance between the person and the government for the harm caused by the latter's actions.

Research importance:

Because of its practical relevance, it is one of the most significant themes that touches people's lives and occupies their attention, especially when administrative activity grew and developed to cover new sectors in which the administration had not before intervened. The parts of harm that administrative action can inflict have expanded beyond the old conventional confines in which it stood, to new areas of law, as a result of the development of the scope of administrative activity. Its goal is to achieve a fair balance between administration capabilities and the rights of others.

Research problem:

Because compensation is one of the assurances created for people affected by the administration activity, the research problem centers around obtaining the intended fairness in satisfying citizens' rights from the party accountable for delivering services to them. If administrative law is primarily concerned with how to attain the public interest with the powers entrusted to the administration, then the application of administrative responsibility is unquestionably a problem of citizen fairness.

Research Hypothesis:

The research hypothesis is based on the fact that administrative accountability is a complex and unclear problem with a high level of sensitivity in Iraq and other nations. It appears to be a conflict between a self-

imposed reality represented by the desire to pay for any damage caused by the administration and the necessity for the administration to do its job and administer public utilities. We highlight a variety of concerns about the extent to which administrative law accomplishes fairness for people who are harmed by illegitimate administration decisions. Is there a theory of integrated dimensions in administrative law? Is the administrative judiciary's formula sufficient for the affected person to fully exercise his rights?

Research Methodology:

In order for the researcher to clarify the subject, the descriptive-analytical approach is adopted by analyzing the available legal texts and analyzing the position of the judiciary and jurisprudence with the synthesis of the comparative approach by looking at some foreign laws and rulings related to the subject of the study to explore the differences or similarities with the Iraqi and comparative legislation.

Research Plan:

According to what was shown earlier, the researcher considers dividing this thesis into three sections: The first is about the nature of the administration's responsibility. The second will be in cases of illegal administrative decisions. As for the third, we devoted it to discussing the concept of compensation and how to estimate it. Then we conclude our research with a conclusion summarizing the most important conclusions and recommendations that we reached as a result of studying our topic in depth. May Allah grant us success.

The first topic
The significance of administration responsibility for its administration decisions

The most significant technique that administration utilizes to convey its intent in order to accomplish the public interest is administrative decisions. When it issues such decisions, it must abide by the principle of legality, otherwise its decisions will be challenged before the judiciary by cancellation or compensation or both. If the administrative decision is characterized by illegality, the responsibility of the administration is realized, especially if it causes harm to the interests of others. We will explain the concept of administrative responsibility in language and terminology, and the most important characteristics of this type of responsibility. Linguistically, responsibility means holding responsible, that is, it is the legal or moral situation in which a person is responsible for words and actions that came in violation of moral and legal rules and provisions ([1]). Idiomatically, administrative responsibility as a type of legal responsibility takes place and takes place within the scope of the administrative legal system, and it is related to the responsibility of the state and the public administration for its harmful actions. But defining its meaning in a narrow and partly sense, as “the legal situation in which the state or the administrative institutions, facilities and public bodies are finally obligated to pay compensation for the harm or damages caused to others by the harmful administrative acts, whether these harmful administrative acts are legitimate or illegal.” ([2])

Characteristics of Administrative Responsibility:

One of the most important characteristics of administrative responsibility is that it is legal responsibility, as well as indirect and third party liability. It is a responsibility with an independent legal system, as well as a modern and rapidly developing responsibility.

First: Administrative responsibility is a legal responsibility:

Administrative responsibility, as a legal obligation, necessitates the presence and implementation of administrative responsibility from the many administrative authorities, organizations, facilities, and administrative public institutions that have damaging administrative activities. It also requires that the state and the public administration that has harmful administrative actions bear the burden of compensation from the public treasury once and for all for the aggrieved. Administrative responsibility is required to provide a legal causal relationship or association, according to the theory of appropriate and productive cause, and the liberties of ordinary individuals. It also requires in administrative responsibility, as a legal responsibility, not

[1] Al-Hussein bin Sheikh Eth Mulwiya, (2007) *Lessons in Administrative Responsibility*, Book One, I 1, Dar Al-Khaldouniyah, Algeria, p. 21.
[2] Ammar Awabdi, Ibid., p. 28.

to enter money in the hands of persons harmed by the state and the public administration in advance, as previously explained in the field of determining the components and elements of legal responsibility ([3]).

Second: It is an indirect legal responsibility:

Direct legal accountability is the person's direct responsibility for his personal harmful actions vis-à-vis the affected person, such as legal liability held and based on a person's demonstrable fault. As for indirect legal liability, it is the legal responsibility for the actions of others. As is the case in the responsibility of the subordinate for the actions of subordinate, and the responsibility of the state and the general administration of the actions of its employees and harmful actions. Indirect responsibility or responsibility for the act of others is realized and is when the person of the official who is naturally subordinate differs from the person of the subordinate with the existence of a link or subordination relationship between the subordinate and the subordinate, the state and the public administration as public moral persons who think, work and act always by natural persons who are workers and employees of the state and public administration. Administrative responsibility is usually indirect and a result of others' acts. Civil responsibility, on the other hand, can be a direct personal liability. It might be that you are indirectly responsible for the behavior of others.

Third: Administrative responsibility is of an independent legal system:

As the state is responsible for its administrative executive activities, administrative responsibility is the obligation of the state. As it is the obligation of a public authority, as well as organizations, bodies, institutions, and administrative public facilities that work within the framework of the state administrative executive function to achieve the public interest of the state and society. Administrative responsibility, as a legal case and a legal system, must be printed and heard with these data and factors and become of a special nature and personal characteristics that are independent of them and distinguish them from other types of legal responsibility. This is on the grounds that administrative responsibility is a legal responsibility for a public administration characterized by several subjective characteristics, the most important of which are: it is an environmental administration that is affected, affected, and interacts with the political, economic, social, technical, scientific, civilizational and cultural data, factors and conditions that collectively constitute the environment and surroundings of the state's administrative system and public administration. This inevitably makes the administrative responsibility characterized by realism, flexibility and sensitivity to the economic, social, political, cultural, civil, scientific and technical environment surrounding and interacting with the public administration in the state ([4]).

Fourth: Administrative responsibility is a modern and rapidly developing one:

In compared to other categories of legal responsibility, administrative responsibility is considered to be quite contemporary and progressive. Administrative responsibility or the responsibility of the state for its administrative executive actions, as a manifestation of the idea of the legal state did not arise and appear only at the end of the nineteenth century and the beginning of the twentieth century. The legal system of responsibility is still in a state of movement, development and construction so far in some of its details ([5]).

The second topic
Cases of administration when responsible for its illegal decisions

Administrative decisions are the heart of the administrative process and are regarded one of the most important concerns impacting general state policies and how they are executed. The origin and rule is the legality of administration decisions. In the sense that it assumes that every administrative decision is considered legitimate and issued in implementation of what is required by the legal and regulatory rules. Whoever wants to appeal or cancel the administration decisions has to prove his claim that they are illegal and in violation of the rules of law and legality in terms of origin. It has been the result of the rule of assuming the correctness of administration decisions. The administration does not stand before the

---

[3] Souad Al-Sharqawi, (1972) *Administrative Responsibility*, 2nd Edition, Dar Al-Maaref, Cairo, pp. 117-118. Muhammad Fouad Muhanna, (1972) *Administration Responsibility in Arab Legislations*, Cairo, League of Arab States, p. 191_197.

[4] For more details see: Muhammad Fouad Muhanna, (1972) *Administration Responsibility in Arab Legislations*, Cairo, League of Arab States, p. 191_197.

[5] Ammar Awabdi, (2007) *Theory of Administrative Responsibility*, 3rd Edition, Diwan of University Publications, Algeria,, p. 28.

administrative court in the position of the plaintiff, but in the position of the defendant, and this is an advantage of the administration.

The responsibility of the administration in the field of administrative decisions does not arise unless its illegality is realized, as exceeding the limit of authority is the basic condition for it ([6]). The illegality of the decision, i.e. it being infected with a defect that removes its legality, and the defects of the administrative decision or the cases of its cancellation mean the various defects that affect the administrative decision and which can lead to its cancellation ([7]). The illegality may affect the decision in its form, so it will be a formal or external illegality. As illegality may affect the administrative decision on its subject, it will be objective or internal illegality ([8]). Here, we will urge efforts to discuss the illegality of the formal (external) administrative decision in the first topic. In the second topic, we examine the defects of objective (internal) illegality.

The first requirement
Cases of illegality of formal administrative decisions

The features of the illegality of the formal administrative decision are related to the defect of incompetence, and a defect in the form and procedures, which we explain successively.

First: The illegality of incompetence:

In general, incompetence is defined as: the legal inability to perform a certain act. Within the scope of administrative decisions, the decision is issued by an employee who does not have the authority to issue it in accordance with the laws and regulations in force ([9]). The illegality of incompetence can be defined as the inability of a certain administrative authority to practice a specific legal or material act that the legislator has made within the jurisdiction of another authority. ([10])The Iraqi legislator considered it one of the main aspects of appealing the administrative decision, as it stipulates in Article 7/2/Second of the State Consultative Council Law No. 65 of 1979 (The reasons for appealing in particular are the following:... That the order or decision has been issued Contrary to the rules of jurisdiction...).

Via such definitions, the subject of competence in administrative decisions is intended to legally carry out a specific administrative action. It is the law that defines for each employee the scope and area of his competence. Hence, the rules of jurisdiction are at the heart of the legislature's duty. The legislative authority determines its competence and scope of work. The judicial authority has its jurisdiction and scope of work, including many and varied judicial structures. It also defines for the executive authority its competence and its field of work, including the many central and local administrative structures that it includes. As a consequence, these rules are considered part of the public order ([11]). It should be recalled here that the issue of competence in issuing administrative decisions is a central legal issue in administrative work, in terms of legal capacity to express the administration binding will in order to bring about a legal effect in the existing situation. The order that results in the invalidity of the administrative decision in the

---

[6] For more details: see Mohsen Khalil, (1982) *Lebanese Administrative Judiciary*, Dar Al-Nahda Al-Arabiya, Cairo,, p. 594.

[7] Maged Ragheb Al-Helou,(1985) *Administrative Judiciary*, University Press, Alexandria, p. 363. Dr.. Suleiman

[8] Muhammad Al-Tamawi, (1959) *Commentary on the provisions of the State Council in the field of the administration's responsibility for its non-contractual actions,* an article published in the Journal of Legal and Economic Sciences, Ain Shams University, p. 1, p. 1, p. 271, and the next ones.

[9] Muhammad Rifaat Abd al-Wahhab, Administrative Judiciary, Judgment of Cancellation (or Annulment), Compensation Judiciary and Procedures, Book Two, 1st Edition, Al-Halabi Human Rights Publications, 2005 Beirut Lebanon, p. 142. For more details see, Bilal Muhammad Zain Al-Din, The lawsuit for cancellation in the State Council Judiciary, Dar Al-Manhaj for Publishing and Distribution Edition 2010, Amman, Jordan, p. 349. See also, Kassem El Eid Abdel Kader, Judicial Control over the Legality of Administrative Decisions in Algeria, PhD Thesis, Faculty of Law, University of Sidi Bel Abbas, 2002, p. 162 and the next ones.

[10] This definition is close to what was stated in the ruling of the Egyptian Administrative Court of 27/1/1957, referred to by Dr. Suleiman Muhammad Al-Tamawi, Al-Wajeez in the Administrative Court, Ain Shams, 1982, p. 196, footnote (1).

[11] Ammar Boudiaf, (2009) *Case for Cancellation in the Civil and Administrative Procedures Law,* Bridges for Publishing and Distribution, First Edition, Algeria, pp. 170-171

event that it is issued by someone other than the person with legal jurisdiction in it. However, we find that this illegality of competence is a defect that rarely happens and affects the administration decision, because the law usually specifies exclusively the administrative authorities competent to issue administrative decisions at the local and national levels.

Types of Incompetence:

1. Serious incompetence:

It is called jurisprudence and the elimination of grave lack of jurisdiction (the usurpation of power), as the jurist Laferiere sees that the usurpation of power exists in two cases:
- Issuance of a decision by an ordinary individual who has not been given any authority by law or regulation.
- The issuance of a decision by the administrative authorities does not fall within the administrative function at all, but rather within the legislative or judicial authority.

2. Simple Incompetence:

Simple incompetence always falls within the limits of the competencies entrusted to the organs of the executive authority ([12]), if the decision exceeds these limits, incompetence becomes grave. The executive authority distributes its competencies to the administrative bodies, interests and institutions to which it belongs, whether within the framework of centralized administrative organization or decentralization. Therefore, these administrative bodies are required to abide by the limits of the powers entrusted to them by law. If it goes beyond these limits, the decisions issued by it are flawed with the defect of simple incompetence and are subject to cancellation for this reason.

3. Temporal incompetence:

This case is represented by the issuance of an administrative decision by an administrative body or one of its members at a time when this body and this member were not legally competent to issue it. This happens in the event that an administrative decision is issued by an employee who has not received his job duties after or after the end of his job association. It may also happen when the legal period specified for issuing the decision has expired ([13]).

Subjective incompetence:

It is represented in the cases in which an administrative decision is issued by an administrative body that does not have the authority to issue it in terms of the subject matter due to the competence of other bodies in it ([14]).

Second: defective form and procedures

This defect is realized when the administrative decision is issued without the administration taking into account the form or procedures stipulated by the law or regulations and instructions. This defect is related to the external appearance of the administrative decision. We know the shape defect and procedure and pictures of the shape rules and procedure. Form and procedure defect is defined as non-respect of formalities and procedures related to administrative decision. These forms and procedures are studied later after studying the incompetence, and the jurisprudence of the French State Council in the articles on defective form ([15]), and the rules of form and procedures are as follows:

---

[12] See in detail: d. Omar Muhammad Al-Shobaki, Administrative Judiciary, 1st Edition, House of Culture for Publishing and Distribution, Amman, 2006, p. 277.
Qasim Mahdi Al-Amiri, The defect of non-specialization in the administrative decision, research published in the Journal of Law and the Judiciary, Volume 3, Baghdad, 2010, p. 129.
[13] Mahmoud Atef Al-Banna, Mediator in the Administrative Judiciary, Dar Al-Fikr Al-Jamii, Cairo, 1988, p. 134, Suleiman Muhammad Al-Tamawi, The General Theory of Administrative Decisions, previous reference, p. 314 and beyond.
[14] Suleiman Muhammad Al-Tamawi, The General Theory of Administrative Decisions, 5th Edition, Dar Al-Fikr Al-Arabi, Cairo, 1984, p. 310.
[15] André de laubadere «traite de droit administratif », 15e édition par j.claude et y.caudemmet, tome1, p578.

1. Writing the decision: If the original does not require the issuance of the decision in a specific form, then most of it is in writing. It may come orally or even by reference. Sometimes the law requires that the decision be issued in writing. The written form of the decision - as we have indicated - is the most general form, for reasons related to stability and others.

2. Reasoning the decision: The rule is that the administrative authority is not obligated to justify its decision based on the presumption of validity or integrity of the administrative decision assumed upon its issuance. The administrative decision must be based on a reason based on reality and the law, so that it is not possible for the administration to issue any decision without a reason. As an exception to this, the law may oblige her to state the reasons on which she bases her decision, and this is true in France as well as in countries that adopt administrative jurisdiction. Thus, if the law, in its broadest sense, authorizes the administration man to issue certain administrative decisions, then he must exercise this jurisdiction according to the form specified by the law. Therefore, based on the foregoing, a distinction must be made between causation as a formal procedure required by law in the decision for its validity and between the reason that justifies it in terms of its legal and material existence would bring about a change or an impact on the existing legal situation or system. Causing is only necessary where required by law. As for the cause, it must always be present and valid, whether the cause is necessary or not. This is for a simple reason that is easy to understand and important at the same time, which is that the work of administration is a conscious and intentional one and cannot be accidental ([16]).

3. Procedures prior to the issuance of the decision: The law sometimes obliges the administration to take certain measures before issuing the decision, such as conducting an investigation and hearing the statements of the person concerned, or taking a certain opinion on the subject of the decision.

4. Procedures following the issuance of the decision: Subsequent procedures are considered non-essential. Violating it does not result in canceling the decision as a penalty for violating the formalities taken after issuing the administrative decision ([17]).

The second requirement
Cases of objective illegality

The illegality of the objective (internal) administrative decision is represented in the event that the decision is flawed with the defect of violating the law, or the defect of deviation from authority. The defect of violating the law in its narrow sense is called the defect of the shop. As for the defect of violating the law in its broadest sense, it includes the defect of reason and the defect of deviation from authority (the defect of purpose).

First: The defect of the content:

The defect of the content means that the administrative decision is defective in its content, in other words, that the legal effect of the administrative decision is not permissible or contrary to the law, regardless of its source, whether it is written, such as constitutional, legislative, statutory, or unwritten, such as custom and general principles of law. It is a violation of the legal rule in that it is a defect that affects the corner of the shop or subject in the administrative decision, it is the face of cancellation related to the internal legality of the decision ([18]). The content of the administrative decision means that each legal action has a specific subject, whether this act is within the scope of private law or within the scope of public law, and it is what interests us in our study, such as the administrative decision. The legal act in general is the legal effect that is arranged or caused by the act directly. It is not envisaged that there is a legal act of whatsoever without the legal effect of the rights or obligations that it arranges. Without this, the act or act loses its essential character, as a legal act. Each administrative decision has a specific place, and the place of the administrative decision is the legal effect caused by the decision or is the change that the decision causes in

[16] Azzawi Abdel Rahman, Administrative Licenses in Algerian Legislation," previous reference, p. 641. For more details see, Ali Khattar Shatnawi: "The Role of the Administrative Judiciary in Determining the Reasons for the Appealed Decision," Journal of Sharia and Law, Yearbook of a Court issued by the United Arab Emirates University, No. 13 February 2000, p. 140 et seq.
[17] Mustafa Abu Zaid Fahmy, Maged Ragheb Al-Helou, Administrative Cases, New University House, Alexandria, Egypt, 2005, pp. 235-237.
[18] Muhammad Al-Saghir Baali, Al-Wajeez in Administrative Disputes, Dar Al-Uloom for Publishing and Distribution, 2005, Annaba, Algeria, p. 169.

the legal centers of individuals. The legal effect of the administrative decision is either to create, amend or cancel a public legal center. It is the effect of the organizational or regulatory administrative decision, either by establishing, amending or canceling an individual or subjective legal center, and it is the effect caused by the individual administrative decision.

In order for the administrative decision to be valid and sound, two conditions must be met: The first is that this place is legally or realistically possible. If the subject of the decision is legally or practically impossible, the administrative decision becomes non-existent and not only subject to cancellation. The second condition is that the subject matter of the decision is legally permissible. If the legal effect of the decision contradicts the legal texts or general legal principles, then this defects the administrative decision and makes it free to appeal against it by cancellation ([19]).

Second: the cause defect

The reason for the administrative decision is the factual or legal situation that precedes the decision and prompts its issuance ([20]). In this sense, the defect of the reason is achieved in the absence of a reason that justifies the issuance of the decision, so it is worthy of cancellation. The administration may claim the existence of facts or material circumstances that prompted it to issue it, and then prove that they are not true in reality.

If an administrative decision is issued without being based on a valid reason, as if the administration issued a decision to punish an employee because he insulted his boss, then it turns out that the insult was not true, then the decision is flawed by the illegality of its reason. The French Council of State began its control over the defect of reason since 1907 by Mono's rule controlling over the existence of facts and the correctness of their legal adaptation and then the Dessay's ruling in 1910 ([21]). However, the established opinion in jurisprudence and the judiciary is that the defect of the cause is independent of other defects. It has been presented that the defect of violating the law is related to the place of the administrative decision, which is the legal effect of the decision, its substance or content. In other words, it is the change brought about by the decision, whether to create, amend or cancel a specific legal center. As for the reason, it relates to the actual or legal situation that existed before the issuance of the decision and prompted its issuance, and the defect of deviation from authority. The defect is related to the purpose or goal that the decision source seeks to achieve, where this purpose is related to the psychological motives of the person or entity that made the decision. The defect of reason is represented by elements of an objective nature related to the law or facts and independent of the psychological state of the source of the decision ([22]).

Third: The defect of abuse of power or deviation in spices (the defect of purpose):

The administrative decision is flawed by the abuse of power if the administration man uses his powers to achieve a purpose other than those specified by law. This defect is related to the structure of the decision source and its motives. Therefore, this defect is associated with the discretionary authority of the administration and is not raised if the administration's authority is restricted to certain limits ([23]). This defect has been of great importance in the administrative judiciary in France, Egypt and Iraq alike, but its importance has diminished because it is related to the hidden psychological motives of the administration. Proving it requires that the judiciary examine the existence of these motives, which is a far-fetched goal. Therefore, the judiciary has given this defect a precautionary character, so it does not look into its existence as long as there is another defect in the administrative decision, such as the defect of incompetence, defect of form, or violation of the law.

---

[19] Muhammad Rifaat Abd al-Wahhab, Administrative Judiciary, Book Two, Al-Halabi Human Rights Publications, 1st Edition, Beirut, Lebanon, 2005, pp. 189-193.

[20] Mahmoud Al-Jubouri, Administrative Judiciary, 2nd Edition, House of Culture, Amman, Jordan, 1999, p. 102. Also see the definition of the reason: Dr. Mohsen Khalil, The Elimination District, Publications House, Alexandria, 1989, p. 117.

[21] Maged Ragheb Al-Helou, Administrative Judiciary, Mansha'at Al-Maaref, Alexandria, 2000, p. 403.

[22] See in detail: d. Abdul Ghani Bassiouni Abdullah, Administrative Judiciary and the Lebanese Shura Council, University House for Printing and Publishing, Beirut, 1999, p. 529,

[23] Muhammad Hassanein Abdel Aal, The Idea of Reason in the Administrative Judiciary and the Case for Cancellation, Dar Al-Nahda Al-Arabiya, Cairo, 1971, p. 71.

Suleiman Muhammad Al-Tamawi, Theory of Abuse of Power (Deviation in Power), 3rd Edition, Ain Shams University Press, 1978, p. 68, d. Muhammad Baher Abul-Enein, Legislative Deviation and Oversight of its Constitutionalism, Volume 1, Edition 1, Dar Abul-Magd for Printing, Cairo, 2006, p. 124.

If the defect of deviation in power is an intentional or intentional defect related to the intention of the decision-maker, who is often ill-intentioned, he knows that he sought a goal far from the public interest or other than those specified by law. It may happen that the source of the decision does not intend to move away from the public interest, but that it deviates from the rule of allocating goals, so the decision is tainted by the defect of deviation ([24]).

Types of abuse of power:

As is the case with other defects in the administrative decision, the defect of deviation in the use of power takes several forms, which we will discuss in turn.

1. Deviating from the public interest:
The law did not give the administration powers and privileges except as a means to help it achieve the main goal it seeks, which is the public interest. If the administration deviates from this goal to achieve personal interests that have nothing to do with the public interest, such as favoritism, achieving a political purpose, or using power with the intent of revenge, then its decisions are flawed by the defect of deviation in power. ([25])

2. Violation of specifying the goal rule:
Although the administration always seeks to serve the public interest, the legislature may set a specific objective for the administration to strive towards in its decisions. If it fails to achieve this purpose, its decision is defected by power abuse even though the administration professes to be working in the public interest ([26]).

3. Abuse of Procedures:
This state of deviation occurs when the administration replaces the administrative procedures necessary to issue a specific decision with other procedures to achieve the goal it seeks. Administration resorts to this method either because it believes that the procedure it has followed is not going to achieve its goals or it has sought to evade lengthy procedures or complicated formalities. Whatever the justifications, the administration has violated the procedures established by law. This behavior of her is tainted by the defect of abuse of authority in the form of deviation in procedures ([27]).

Evidence for the abuse of power:

The origin of the defect of deviation in authority is that the burden of proving it falls on the one who claims it, and if he is unable to do so, he loses his case. The court may not deal with this defect on its own, especially since administrative decisions enjoy the presumption of legality, and whoever claims that they violate the legality must prove that ([28]). In view of the difficulty of the plaintiff's position and his inability in many cases to prove this deviation as long as it relates to the psychological aspects of the decision source. The administrative judiciary has traditionally stipulated that if the text of the decision or what was included in the case file of papers and documents lead to proof of abuse or deviation of authority, then the judge may rule on his own to cancel the decision without making the annulment requester establish evidence of the deviation ([29]).

---

[24] Abdulaziz Abdel Moneim Khalifa, Deviation in power as a reason for canceling the administrative decision, Dar Al Fikr Al Jamia, Alexandria, 2010, p.
[25] Mustafa Abu Zaid Fahmy, *Administrative Judiciary*, previous source, p. 818.
[26] Qader Ahmed Abdel-Husseini, *Deviation of the Administrative Decision from the Rule of Allocating Goals in Iraqi Legislation*, a research published on the Internet under the link: (http://www.iasj.net/iasj?func=fulltext&aId=30163) Date of visit 15/4/2017, pg. 3 Mustafa Abu Zaid Fahmy, *Administrative Judiciary*, previous reference, pp. 821 and 922.
[27] Ali Hammoud Al-Qaisi, previous reference, p. 232, d. Nabila Abdel Halim Kamel, Administrative Claims - The Cancellation Claim and the Compensation Claim, Dar Al-Nahda Al-Arabiya, Cairo, 1996, p. 279, d. Muhammad Abdul-Aal Al-Sinari, The Principle of Legality and Control of Administration Work, Emirates University Press, 2000, p. 278.
[28] Saif Al-Din Al-Balawi, The defect of deviation in power in the administrative decision and its impact on the annulment lawsuit, research published in the Journal of the Fatwa and Palestinian Legislation Diwan, 2009, p. 25.
[29] Muhammad Refaat Abdel Wahab and others, Administrative Judiciary, Volume 2, Dar Al-Nahda Al-Arabiya, Cairo, 1997, p. 584, Dr. Maher Gabr Nader, The General Origins of the Administrative Judiciary, Dar Al-Nahda Al-Arabiya, Cairo, 1996, p. 386.

The judiciary of the French and Egyptian State Council also settled on accepting the evidence derived by all means of proof or indication from the mere reading of the decision or its reasons on which it was based, or from the method of issuing and implementing the decision and the circumstances surrounding it to prove the defect of deviation. There is nothing in the Iraqi administrative judiciary to the contrary. The judiciary can infer the existence of the deviation from the circumstances surrounding the decision and the timing and method of its issuance and implementation. The litigants may also be summoned to ask them about the facts surrounding the decision-making in order to find out the objectives and motives of the administration. As it is important that the allegation of abuse of power does not remain a sent word without evidence ([30]).

The third topic
The concept of compensation for illegal decisions of administration and assessing the compensation

Administrative responsibility is a crucial topic since it impacts people's rights and freedoms. Especially when we consider the perspective of the aggrieved party and his demand for compensation as a result of the harm he has suffered. In addition, the complexity of the administration's operations and the manner by which they are carried out necessitates the use of an administrative judiciary to oversee all administration activities, including the compensation case. As a result, we will demand that efforts be made to investigate this in two ways, the first of which will focus on the notion of recompense. We'll use the second to talk about how compensation is assessed.

The first requirement
The concept of compensation

Compensation is offered for real damage where the principle is to cover all the damage caused by the administration to the affected person, by compensating the damage and compensating the affected for the damage he sustained, provided that the amount awarded is exactly equal to the damage.

Linguistically, compensation is derived from the word “Awad”, which means “gave sth for sth”. ([31]). We also find it a language in the sense of substitute ([32]).The plural is “awad” compensations. “He gave him” means “taking compensation”. “asked so-and-so for awadh” means “asked him for compensation ([33]). It is against benefit. Damage expresses bad condition. Hence the harm, which is the opposite of the benefit. Damage also means narrowness and decrease. ([34]).

The word “dharar” disability” is mentioned in the Holy Book and in many places, including the Almighty’s saying: “Not equal are those believers remaining [at home] - other than the disabled.” Likewise, the Almighty’s saying “..and [those who] are patient in poverty and hardship and during battle.” ([35]).And when affliction touches man, he calls upon Us) ([36]) The same is true of the Almighty's saying (But they do not mislead except themselves, and they will not harm you at all. And Allah has revealed to you the Book and wisdom and has taught you that which you did not know. And ever has the favor of Allah upon you been great) ([37])

---

[30] For more details see: D. Sami Gamal El-Din, The Judiciary of Convenience and the Discretion of Administration, Dar Al-Nahda Al-Arabiya, Cairo, 1992, p.280.
[31] Al-Omari Salha, “The claim of unfair competition to protect industrial property rights in Algerian legislation”, Journal of Policy and Law Books, No. 3 (June 2010), p. 218.
[32] Taha Abdel Mawla Ibrahim, Problems of Compensation for Bodily Damage and in Civil Law in the Light of Jurisprudence and the Judiciary, Dar Al-Fikr and Law, 1st Edition, Alexandria, 2000, p. 27.
[33] Muhammad Fathallah Al-Nashar, The Right to Civil Compensation (Between Islamic Jurisprudence and Civil Law), New University Publishing House, Alexandria, 2002, p. 25.
[34] Ibn Manzur Jamal al-Din Muhammad ibn Makram al-Ansari looks at this: Lisan al-Arab, Part VI, The Egyptian House of Composition and Translation, 630-711 AH, pp. 153-158. Likewise, the scholar Ahmed bin Muhammad bin Ali Al-Maqri Al-Fayoumi: The Lighting Lamp in Gharib Al-Sharh Al-Kabeer, Fourth Edition, Al-Amiri Press, Cairo, 1921 AD, pp. 492-493. Likewise, Ismail bin Hammad Al-Gohari: Al-Sahih Taj Al-Lughah and Al-Arabiya, Dar Al-Kitab Al-Arabi Press, Cairo, 1377 AH, pp. 719-720. Likewise, Muhammad Mortada al-Husayni al-Zubaidi: The Crown of the Bride, Part Twelve, 1973, pp. 384-393.
[35] Verse (95) of Surat An-Nisa.
[36] Verse (177) from Surat Al-Baqarah.
[37] Verse (12) surat Yunus

Idiomatically, compensation: ([38]) is what the official is obligated to do to the one who has suffered harm ([39]). Compensations are sums owed by the person responsible for the damage and compensation aimed at redressing the harm inflicted on the affected person. It is the end result of administration responsibility ([40]). It means the assault or harm that affects a person of one of his rights or a legitimate interest to him, whether that right or interest is related to the safety of his body, his emotions, his money, his honor, or his consideration, and whether this right or interest is of financial value or not. ([41])

This prejudice or abuse should make his position worse than it was before, because he detracted from the privileges or powers conferred upon him by that right or that interest. Therefore, the harm is not considered unless it makes the position of the right holder or the interest worse than what it was before the infringement. Therefore, the harm is not considered unless it makes the position of the right holder or the interest worse than what it was before the infringement. If the act affected by it is replaced by a harm that is more harmful and less harmful than it, then it is not considered a harmful act and does not require compensation ([42]). According to the foregoing, an attack on a person's life, body, or money achieves the element of harm, whether it is in administrative law or in civil law. ([43]). The Iraqi Civil Code referred to compensation in the text of Article 169, paragraph 2, where it stated (The compensation is for every obligation arising from the contract, whether it is an obligation to transfer ownership, a benefit, or any other right in rem, or an obligation to act or refrain from acting and includes the creditor's losses from and his death is from earning). In the Egyptian Civil Code, a clear text mentioned about the importance and necessity of compensating the affected person for the damage he sustained as a result of the error, even if the compensation was not indicated in the contract or in the text of the law, so the judge can estimate that. This was mentioned in the text of Article 221 Paragraph 1 (If the compensation is not estimated in the contract or by a provision in the law, then the judge is the one who estimates it, and the compensation includes the creditor's losses and his loss of gain, provided that this is a natural result of non-fulfillment of the obligation or delay in fulfilling it. The damage is considered a natural consequence if the creditor was not able to avoid it by making a reasonable effort. The French Civil Code in Articles 1149 and 1150 also contrasted the Iraqi and Egyptian laws in its reference to the importance of compensation as a means of removing damage from the affected person and compensating him in proportion to his losses and his loss of gain ([44]).

The second requirement
Rules for estimating compensation for illegal administrative decisions

Compensation may be determined by law, and left to the judge's discretion. The law usually does not interfere in the estimation of compensation unless it comes to the responsibility of administration on the basis of risk, that is, without error ([45]). If the law determines the amount of compensation. The judge is bound by the will of the legislator, even if he considers that this compensation specified by the text of the

[38] Verse ((113)) of Surat An-Nisa.
[39] Taha Abdel Mawla Ibrahim, previous reference, p. 27.
[40] Sherif Ahmed Al-Tabbakh, Administrative Compensation in the Light of Jurisprudence, Judiciary and Administrative Court Judgments, Dar Al-Fikr Al-Jami'i, 1st Edition, Alexandria, 2006, p. 5.
[41] Hassan Ali Al-Thnoon: Al-Mabsoot in Civil Liability, Part One, Damage, Thames Printing and Publishing Shareholding Company, Baghdad, 1991, p. 158 considers this. As well as Dr. Ramadan Muhammad Abu Al-Saud: Principles of Compliance in Egyptian and Lebanese Law, University House for Printing and Publishing, Beirut, 1984, p. 231. Likewise, Dr. Suleiman Marks: Al-Wafi in Explanation of Civil Law, Volume Two, Harmful Action and Civil Liability, Section One, General Provisions, Fifth Edition, Al-Salam Press, Cairo, 1988, p. 133. As well as Abdul Razzaq Ahmed Al-Sanhoury: The Mediator in Explaining Civil Law, Part One, Theory of Commitment in General, Sources of Commitment, First Edition, 1952, pp. 969-970.
[42] Abdullah Mabrouk Al-Najjar: Literary Damage, previous source, pg.
[43] Muhammad Fouad Muhanna looks at this: The responsibility of administration in the legislation of Arab countries, Al-Jilawi Press, Institute of Arab Research and Studies, 1972, p. 181.
[44] Iraqi Civil Code No. 40 of 1951, Egyptian Civil Code No. 131 of 1948, French Civil Code.
[45] The Egyptian Civil Code states in Article 221 in its first paragraph: "If the compensation is not estimated in the contract or by the text of the law, then the judge is the one to estimate it. The compensation includes the loss and loss of the creditor's loss, provided that this is a natural result of non-fulfillment of the obligation or delay in paying the debts. The damage is considered a natural consequence if the creditor was not able to avoid it by making a reasonable effort

law does not cover all the damages incurred by the affected person. ([46]) The administrative judge, when estimating the value of compensation for the damage that the administration is asking about, takes into account some controls that ensure that the compensation is just. These controls, in fact, do not differ from the controls stipulated in the rules of civil law. The controls to which the administrative judge is subject when assessing compensation are as follows:

A- Taking into account the circumstances of the affected person:
Accordingly, Article 170 of the Iraqi Civil Code states, "The extent of compensation for the damage sustained by the affected person is estimated in accordance with the provisions of Articles 221 and 222, taking into account the circumstances." The circumstances of the clothes here mean the personal circumstances of the affected person, because the compensation is estimated according to the damage incurred. Estimating this undoubtedly requires consideration of the health, physical and financial condition of the affected person.

B - The amount of compensation should not exceed what the affected person requested:
The judge does not rule except within the limits of the plaintiff's requests. Accordingly, if the plaintiff demands compensation for material damage only, the judge may not include in the elements of estimating compensation in this case the moral damage suffered by the plaintiff. Also, if the plaintiff does not claim compensation for moral damage before the Administrative Court, he may not seek compensation for it before the Egyptian Supreme Administrative Court. The Supreme Administrative Court decides in its judgment dated July 21, 1992. It is clear from the papers that the plaintiff (the appellant) has demanded before the Administrative Court for compensation for material damages represented in the value of the merchandise, the wages of the equipment guards, and the rental of such equipment for the period from 16/8/1982 to 16/1/1984. The plaintiff has set the value of this compensation in specific amount. He may not claim compensation for moral damages resulting from the administrative body's mistake before the Supreme Administrative Court, given that this request was not submitted to the Administrative Court and was not the plaintiff demands it in his claim statement or in his closing memoranda before this court, given that the Supreme Administrative Court is a court of appeal that tries the contested judgment and the validity of the litigants' demands…"([47]).

C - The assessment of compensation must be related to the extent of the administration's responsibility for the act that caused the damage:
If the affected person or third parties participate with the administration in causing the damage, the compensation is divided according to the participation of each of these factors in causing the damage.

D- In assessing compensation, consideration should be given to whether the work of the administration that caused the damage resulted in a benefit or benefit to the affected person. If this happens, the judge must deduct this interest from the value of the compensation. Compensation is only for the actual damage.

E - The judge shall assess compensation at the time of the judgment, not at the time of its occurrence:
On the one hand, the compensation decision is thought to reveal rather than prove the claim to compensation. As a result, if the court orders compensation, the judgment for compensation takes into consideration all damages suffered by the plaintiff from the time the detrimental action occurred until issuing the decision. His decision is final, and the affected person cannot request an increase after a set length of time unless the judge or the legislation provides for a specific provision allowing the affected person to request a review of the compensation assessment within a given period of time. The general rule in the judge's assessment of compensation in the ordinary judiciary or in the administrative judiciary is that the compensation is to the extent of the loss that the affected person has incurred and the loss of gain ([48]). He notes that it is difficult, if not impossible, to apply this rule to the case of moral damages. The estimation of these damages will be controlled because the moral damage is not based on certain values that are known to be estimated ([49]). Also, jurisprudence and the judiciary, whether in France, Egypt or Iraq, agree on the

---

[46] Dr.. Jaber Nassar, The State's Responsibility for its Non-Contractual Actions, Dar Al-Nahda Al-Arabiya, 1995, p. 311.
[47] Referred to by Dr. Jaber Nassar, The State's Responsibility for its Non-Contractual Actions, Dar Al-Nahda Al-Arabiya, 1995, pp. 312-313.
[48] Dr. Muhammad Refaat Abdel-Wahhab, (2002) *Administrative Judiciary, Judgment of Cancellation* (or Annulment) Judgment of Compensation and Procedures, Al-Halabi Human Rights Publications, Part 2, p. 827
[49] Majed Al-Helou, (1995) *Administrative Judiciary*, University Press. 514.

necessity of compensation for material damages. Compensation includes the affected person's loss and loss of gain.

Conclusion

In the conclusion, it is necessary to indicate the most important results that emerged from the study. We mention the most important recommendations that it organized before the competent authority:

First, the results:

1- The administrative judiciary considered the aspects of illegality as defects affecting the administrative decision in its legality, but it took a different position regarding them.

2- If the abolitions appeared in France thanks to the judiciary, then their appearance in Iraq and Egypt was all at once thanks to the legislator.

3- As the competence of the formal defects of the administrative decision, and this is entrusted to the legislator, who determines the tasks and functions and distributes the roles. As a result, these rules are considered part of the public order, and the following legal consequences resulted from are:

- The administration may not conclude an agreement with individuals to change the rules of jurisdiction as long as they are set and specified by the legislator.
- The appellant with the capacity and interest has the right to raise a plea for incompetence at any stage of the litigation. The judge may also raise the same payment on his own.
- The administration may not get bored of the rules of jurisdiction, even in cases of necessity and urgency.
- A defect in competence may not be corrected by a subsequent procedure, which is the approval of the competent authority on the administrative decision issued by a non-competent authority.

4- Incompetence is one of the defects that do not occur and may fault the administration's decision only rarely, because the law usually specifies exclusively the administrative authorities competent to issue administrative decisions at the local and national levels.

5- The absence of the decision or annulling it has only one legal effect, which is the ruling on the revocation of the decision as a result of incompetence, regardless of the severity of this defect. It is an annulment that only results in restoring the situation to the way it was before the decision was issued. As for saying that the lack of a decision leads to the transformation of this decision into a material action, and then the dispute over it will be outside the jurisdiction of the annulment judge. This will leave individuals without protection from the arbitrariness of the administration if it tries to implement its non-existent administrative decisions. It would also hide greater protection for individuals in the face of decisions that have a slight flaw, and leave them without protection from decisions that have been seriously flawed.

6- If the case involves a null administrative decision, the judge annulling the decisions will refuse to accept the case on the basis that such a decision is a substantial action that is unfit to be the topic of an annulment case, while the nullity should be resolved by an authoritative judgment. This is a matter that requires the acceptance of the annulment lawsuit by the judge, not its rejection. Therefore, the French Council of State worked to accept the ruling in it. In addition, the Egyptian administrative judiciary has become not keen in all cases to use the term absence, but rather has taken the decision to cancel the administrative decision and arrange the same results and that it suffers the defect of serious incompetence.

7- Contemporary legislative development has produced new types of administrative responsibility, which is the theory of responsibility by virtue of law, and its foundation on the law directly. If the administration is able, according to the applicable rules, to deny the error for itself, or prove that there is no causal relationship between its activity and the damages occurred, it would be unable to exclude its responsibility if its direct source was the law.

8- With regard to our answer to the questions we raised in the hypothesis of the message, foremost of which is the extent to which the administrative law achieves the rules of fairness against those affected by the actions of the administration, and the extent to which this law sets an integrated theory for the rules of compensation for the actions of the administration, as well as the extent to which the administrative judiciary has developed sufficient formulas to satisfy the affected person from the work of the administration of his rights, we shall answer all by saying that the administrative law at the level of legislation, jurisprudence and the judiciary have endeavored to develop the integrated structure of an integrated theory in compensating those affected by the actions of the administration.

It established the rules of fairness for everyone whose interests are exposed to danger or harm as a result of the administration's actions of all kinds, legal and material, legal and illegal. However, we realize and say that all these efforts are only for now. Will it fix or will it be enough for the future? This is what the future will prove at the time, based on the most important characteristics of the existing administrative law in its

---

Dr.. Suleiman Al-Tamawi, Compensation Judgment, A Comparative Study, Dar Al-Fikr Al-Arabi, 1986 AD - pg. 492

content and its meaning on continuous development and change to keep pace with the developments of life in all its details and to fully meet the needs of individuals.

Second: Recommendations:

1- We note that the Iraqi legislator has stipulated the general basis for administrative responsibility for the damage caused by its employees while carrying out their duties. It is still far from the development reached by the French Council of State and the Egyptian legislation in distinguishing between an accompanying error and a personal error.

2- If the Iraqi legislator had intended to stipulate the responsibility of the administration as a public authority for the benefit of the affected person. However, he completely neglected the employee and made him, as we have noted, accountable for all the mistakes he committed without discrimination.

3- The researcher believes that the Iraqi legislator should reconsider the administration responsibility system, because the sword of responsibility is still hanging over the employees as long as it can refer to them regardless of the type of mistake they committed. This makes them do nothing, for fear of bearing its consequences, which in turn affects the means of administration, in wisely and courageously addressing the issues that concern the majority of the members of society.

4- In the researcher's opinion, from a legal point of view, the administrative judge in Iraq faces the problem of the legislator defining the competencies of the Administrative Court of Justice.

5- The researchers see the necessity of the administrative judiciary competence over the compensation suits, whether it was originally filed or subordinated. There is no way for that except by holding the competence of the administrative judiciary in this regard. Each of the judiciary for compensation and the judiciary for annulment has its reasons on which it is based.

6- In the researcher's opinion in Iraq, we note that the judiciary specialized in issues of responsibility for the work of material administration is the ordinary judiciary. Therefore, we call for the necessity that such cases within the competence of the administrative judiciary, are similar to the Egyptian legislator who made this matter within the competence of the administrative judiciary under Law No. 47 of 1972 in its 9th article.

References:

1. Al-Gohari, I. (1377) *Al-Sahih The Crown of Language and Arabic Sahih*, Dar Al-Kitab Al-Arabi Press, Cairo.
2. Abdel Halim Kamel, N. (2000) *Administrative Claims - The Cancellation Claim and the Compensation Claim*, Dar Al-Nahda Al-Arabiya, Cairo, 1996, p. 279, d. Muhammad Abdul-Aal Al-Sinari, The Principle of Legality and Control of Administration Activities, Emirates University Press.
3. Abdel Mawla Ibrahim, T. (2000) *Problems of Compensation for Bodily Damage and in Civil Law in the Light of Jurisprudence and Judiciary*, Dar Al Fikr and Law, 1st Edition, Alexandria.
4. Abdul Ghani Bassiouni A, (1999) *Administrative Judiciary and the Lebanese Shura Council*, University House for Printing and Publishing, Beirut.
5. Abdul-Hussaini, Q.A. (2017) *Deviation of the Administrative Decision from the Rule of Allocating Goals in Iraqi Legislation*, a research published on the Internet under the link: (http://www.iasj.net/iasj?func=fulltext&aId=30163),
6. Abu Al-Saud, R. M. (1984) *Principles of Compliance in Egyptian and Lebanese Law*, University House for Printing and Publishing, Beirut,
7. Abu Zaid Fahmy, M, & Al-Helou, M. R. (2005) *Administrative Cases*, New University House, Alexandria, Egypt.
8. Al-Amiri, Q, M. (2010) The defect of non-specialization in the administrative decision, *research published in the Journal of Law and the Judiciary*, Volume 3, Baghdad.
9. Al-Helou, M. (1995) *Administrative Judiciary*, University Press.
10. Al-Helou, M. R. (2000) *Administrative Judiciary*, Mansha'at Al-Maaref, Alexandria.
11. Al-Hussein bin Sheikh Mloya, (2007) *Lessons in Administrative Responsibility*, Book One, I 1, Dar Al-Khaldouniyah, Algeria.
12. Al-Husseini M., Al-Zubaidi, M. (1973) The Crown of the Bride, Part Twelve.
13. Al-Jubouri, M. (1999) *Administrative Judiciary*, 2nd Edition, House of Culture, Amman, Jordan.
14. Al-Maqri Al-Fayoumi, A, M. A. (1921) *The Lighting Lamp in Gharib Al-Sharh Al-Kabeer*, Fourth Edition, Al-Amiri Press, Cairo.
15. Al-Najjar, A, M. (1995) *Literary Damage, A Comparative Study in Islamic Jurisprudence and Law*, Modern Egyptian Office Press, Dar Al-Marikh Publishing, Riyadh.
16. Al-Omari S. (2010) *The claim of unfair competition to protect industrial property rights in Algerian legislation*", Journal of Policy and Law Books, No. 3.

17. Al-Qaisi, A. H. (2013) *Principles of Administrative Law and the Public Job According to the Legislation of the United Arab Emirates, Publisher*: Sharjah, University of Sharjah, College of Graduate Studies and Scientific Research.
18. Al-Saghir Baali, M. (2005) *Al-Wajeez in Administrative Disputes,* Dar Al-Uloom for Publishing and Distribution.
19. Al-Sanhoury, A. A. (1952) *The mediator in explaining the civil law, Part One, Theory of Commitment in General, Sources of Obligation*, 1st Edition.
20. Al-Sharqawi, S. (1972) *Administrative Responsibility*, 2nd Edition, Dar Al-Maaref, Cairo.
21. Al-Shobaki, O, M. (2006) *Administrative Judiciary,* 1st Edition, House of Culture for Publishing and Distribution, Amman.
22. Al-Tabbakh, S. A. (2006) *Administrative Compensation in the Light of Jurisprudence, the Judiciary and the Judgments of the Administrative Court,* Dar Al-Fikr Al-Jamii, 1st Edition, Alexandria.
23. Al-Tamawi, S. M. (1959) *Commentary on the provisions of the State Council in the field of the administration's responsibility for its non*-contractual actions, an article published in the Journal of Legal and Economic Sciences, Ain Shams University, Vol. 1.
24. Al-Tamawi, S. M. (1978) *Theory of Abuse of Power (Deviation in Power*), 3rd Edition, Ain Shams University Press.
25. Al-Tamawi, S. M. (1982) *Al-Wajeez in the Administrative Judiciary*, Ain Shams.
26. Al-Tamawi, S. M. (1984) *The General Theory of Administrative Decisions*, 5th Edition, Dar Al-Fikr Al-Arabi, Cairo.
27. Al-Tamawi, S. M. (1984) *The General Theory of Administrative Decisions*, previous reference.
28. Al-Tamawi. S. (1986) *The Judiciary of Compensation, a comparative study*, Dar Al-Fikr Al-Arabi.
29. Ammar Awabdi, (N.D) *Book of Administrative Law*, Diwan of University Publications, 3rd Edition, Algeria.
30. André de laubadere «*traite de droit administratif*», 15e edition by j.claude et y.caudemmet, tome1,
31. Annaba, Algeria, d. Muhammad Rifaat Abd al-Wahhab, (2005) *Administrative Judiciary*, Book Two, Al-Halabi Human Rights Publications, 1st Edition, Beirut, Lebanon, pp. 189-193.
32. Atef Al-Banna, M. (1988) *Al-Wasit in the Administrative Judiciary*, Dar Al-Fikr University, Cairo.
33. Awabdi, A. (2007) *Theory of Administrative Responsibility*, 3rd Edition, Diwan of University Publications, Algeria.
34. Azzawi, A, (2007) *Administrative Licenses,* PhD thesis in public law, Faculty of Law, University of Algiers.
35. Baher Abul-Enein, M. (2006) *Legislative Deviation and Oversight of its Constitutionalism*, Volume 1, Edition 1, Dar Abul-Magd for Printing, Cairo.
36. Boudiaf, A. (2009) *Case for Cancellation in the Civil and Administrative Procedures Law*, Bridges for Publishing and Distribution, first edition, Algeria.
37. Egyptian Civil Code No. 131 of 1948
38. El-Eid Abdelkader, Q. (2002) *Judicial Control over the Legality of Administrative Decisions in Algeria,* a state PhD thesis, Faculty of Law, University of Sidi Bel Abbas.
39. El-Helou, M. R. (1985) *Administrative Judiciary*, University Press, Alexandria.
40. Fathallah Al-Nashar, M. (2002) *The Right to Civil Compensation (Between Islamic Jurisprudence and Civil Law*), New University Publishing House, Alexandria.
41. Fouad Muhanna, M. (1972*) Administration Responsibility in the Legislation of Arab Countries, Al-Jilawi Press,* Institute of Arab Research and Studies.
42. Fouad Muhanna, M. (1972) *Administrative Responsibility in Arab Legislations,* Cairo, League of Arab States.
43. Fouad Muhanna, M. (1972) *Administrative Responsibility in Arab Legislations,* Cairo, League of Arab States.
44. French Civil Code.
45. Gabr M. Nader, (1996) *The General Origins of the Administrative Judiciary*, Dar Al-Nahda Al-Arabiya, Cairo.
46. Gamal El-Din, S. (1992) *The Judiciary of Convenience and the Discretion of Administration*, Dar Al-Nahda Al-Arabiya, Cairo.
47. Hassanein Abdel-Aal, M. (1971) *The idea of the reason in the administrative judiciary and the case for cancellation,* Dar Al-Nahda Al-Arabiya, Cairo.
48. Ibn Manzur Jamal al-Din Muhammad ibn Makram al-Ansari (630-711 AH.) *Lisan al-Arab*, Part VI, The Egyptian House of Composition and Translation.
49. Iraqi Civil Code No. 40 of 1951
50. Khalil, M. (1982) *Lebanese Administrative Judiciary,* Arab Renaissance House, Cairo.
51. Khalil, M. (1989) *The Elimination District*, Publications House, Alexandria.

52. Khattar, A. Shatnawi (2000) The Role of the Administrative Judiciary in Determining the Reasons for the Challenged Decision*," Journal of Sharia and Law,* Yearbook of a Court issued by the United Arab Emirates University.
53. Moneim Khalifa, A, A. (2010) *Deviation in authority as a reason for canceling the administrative decision*, Dar Al Fikr Al Jamia, Alexandria.
54. Nassar, J. (1995) *State Responsibility for its Non-Contractual Actions*, Dar Al-Nahda Al-Arabiya.
55. Nassar, J. (1995) *State Responsibility for its Non-Contractual Actions*, Dar Al-Nahda Al-Arabiya.
56. Refaat Abdel-Wahhab, M. (2002) *Administrative Judiciary, Judgment of Cancellation (or Annulment) Judgment of Compensation and Procedures*, Al-Halabi Human Rights Publications, Part 2
57. Refaat, M. Abdel Wahab and et al., (1997) *Administrative Judiciary*, Volume 2, Dar Al-Nahda Al-Arabiya, Cairo.
58. Rifaat Abdel Wahab, M. (2005) *Administrative Judiciary, Judgment of Cancellation (or Annulment), Compensation Judiciary and Procedures*, Book Two, 1st Edition, Al-Halabi Human Rights Publications, Beirut Lebanon
59. Saif Al-Din Al-Balawi, (2009) The defect of deviation in authority in the administrative decision and its impact on the annulment lawsuit, research published in the *Journal of the Fatwa and Palestinian Legislation Diwan*.
60. Solomon Marks (1988) *Al-Wafi in Explanation of Civil Law*, Volume Two, *Harmful Action and Civil Liability*, Section One, General Provisions, Fifth Edition, Al Salam Press, Cairo,
61. Thnoon, H, A. (1991) *Al-Mabsoot in Civil Liability*, Part One, Damage, The Times Printing and Publishing Shareholding Company, Baghdad.
62. Zain Al-Din, B. M. (2010) *The lawsuit for cancellation in the State Council Judiciary*, Dar Al-Manhaj for Publishing and Distribution, Amman, Jordan.