

## **Administrative Regulations are distinguished from Similar Concepts**

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### **Abstract**

Among the factors that increase the difficulty of distinguishing between law, regulations and administrative decision is the expansion of the state's activity and the multiplicity of its fields, and the recognition of constitutions for the right of the executive authority to issue regulations of all kinds, and here it was necessary to clarify the distinction between regulations from law and administrative decision.

**Keywords:** Regulations, administrative, concepts

### **Introduction**

A lot of laws are issued, then followed by their executive regulations, which creates confusion between them, and here we will clarify the distinction between regulations and laws. At the beginning we explain what is meant by law, and whether all the organizations that exist in the state can be called the word law, for the customs of the people of Law does not apply the term laws to all existing systems. Rather, it is a term for a specific category of rules regulating an issue. Laws are included in a hierarchical ladder headed by the basic system of the state, followed by laws, then executive regulations, administrative decisions, circulars and internal regulations for each unit of the administrative apparatus. For the state, and with this gradation, it is not permissible to contradict the highest minimum, otherwise the violator would be invalid on that, and the judiciary decides this invalidity by virtue of a ruling issued in this regard. The law is a set of general and abstract rules that apply to all individuals in the state, so the rules must be of a general nature That is, to regulate a matter for all individuals in the state and not for one individual, and the jurists believe that it does not take it out of the public character if these rules come to regulate an affair for a specific segment of society, as the meaning of generality is that the rules do not address specific named people, but rather with their qualities, such as the state issues a law that regulates the affairs of engineers, so it is It was not issued for so-and-so, but it was issued to regulate the work of everyone who holds the capacity of an engineer, and not only that, but these rules must be abstract, that is, they do not come to regulate a specific situation or a special case only, and the difference between it and the constitution or the basic system as called by our beloved country, the Sultanate of Oman – And well done – is that the latter involves general principles that govern the policies of the state and its system of government and the principles on which it is based. In order to differentiate between them, there are two standards that traditionally compete in this field, the formal or organic standard, and the objective or material standard.

### **Literature review**

**The first topic: the distinction between regulations and the law.**

**The first section: the formal standard.**

The formal criterion depends mainly on the entity issuing the work to determine its type, and this criterion also refers to the external form in which the legal rule is embodied, and the procedures that were followed in issuing it (1). The law is what is issued by the legislative authority, while the regulations are what is issued from general rules that are abstract from the executive authority (2). If the legal action taken was issued by the legislative authority, then it constitutes a legislative action

and falls within the scope of the ordinary legal rules, while if this legal knowledge was issued by the executive authority, then it is considered an administrative action and falls within the scope of the regulations (3).

**The second section: the objective standard.**

The objective criterion is based on the essence and substance of the work, and the extent to which it relates to the rights and general freedoms of individuals without regard to the capacity of the member or the body from which the act is issued, because the nature of the work does not change according to the different bodies that issue it, or due to the different forms or procedures in which it is issued (4).

This criterion also distinguished the law from the regulation by referring to the content of each of them, on the basis that the legalist usually lays down and decides the basic principles, while the role of the regulation is usually limited to stating the detailed provisions.

Laws are distinguished from regulations by two characteristics (5):

First: The characteristic of innovation: the law is legislated for a specific need and is not based on the existence of a previous regulation for this case, while regulations are issued to implement the laws.

Second: The characteristic of independence: The law is not subject to restrictions or conditions that limit its authority, while regulations are subject to the restrictions contained in the law.

With regard to regulations, they also have two characteristics:

First: it's secondary.

Second: it is dependent.

**The second topic: the concept of administrative decision.**

**The first section: the definition of administrative decision.**

It is well known that the actions issued by the administration are not the same, as is the case of all legal persons, as its actions are divided into two parts, the first: material actions in which its will is not directed towards the events of the legal effects arising from it, and the second: legal actions in which its will is directed towards arranging its legal effects, and this is the last Either it is issued by the administration's unilateral will, and in this case it is called an administrative decision, which is the most common legal administration act, or it is issued based on the participation of the administration's will with another will or wills to form the administrative contract.

Accordingly, I divided this section into two branches: I first studied the definition of the administrative decision, and then, upon completion of those definitions, I briefly presented the characteristics of the administrative decision through which we can distinguish the administrative decision from other actions. Secondly, I devoted it to explaining the elements of the administrative decision:

The judiciary and administrative jurisprudence presented many definitions of the administrative decision, which differed in the elements on which they are based. This is evident in the following:

First: the judicial definition of the administrative decision

The legislation did not define the administrative decision, and there was no consensus on a unified definition of the administrative decision in the judiciary and administrative jurisprudence, so we find that the term decision is derived from a Latin origin and means the last and decisive position that a specific person considers to take a position to reach a specific result (6).

And the decision linguistically: it is what proves the opinion in the judgment and the issue, and the decision: the stable from the earth (7), so we find with this meaning that multiple verses have been mentioned in the Holy Qur'an, such as the Almighty's saying (Who made the earth a decision) (8), so the decision is the place in which one stays for a long time (9). As mentioned in this sense in the Almighty's saying (and the Hereafter is the abode of decision) (10).

As for its idiomatic definition, it has been said about defining the administrative decision as a judiciary according to many jurisprudences, as there are many definitions of the administrative decision in the judiciary, and the most important of these definitions are what was mentioned by the

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Egyptian State Council courts. In a ruling issued by the Administrative Court in Egypt, this court defined the administrative decision as: (Every disclosure on the part of the public administration issued explicitly or implicitly by the management of this interest during the performance of its functions prescribed by law within the limits of the administrative field, and is intended to create a legal effect and take an executive capacity...) (11).

Then, these definitions were repeated in the rulings of the Administrative Court, the most important of which was its definition issued in the year 1954, when it defined the administrative decision as: (the disclosure by the administration in the form specified by law of its binding will with its public authority, according to the laws and regulations, with the intention of creating a specific legal center when it was possible, and legally permissible, and the motive for it was the pursuit of a public interest...) (12).

It is noted on the aforementioned definition that the motive for issuing the administrative decision is the public interest, and this matter is related to the goal element, and it is possible to issue the administrative decision, but it achieves a private interest, not a public one.

And the Supreme Administrative Court in Egypt defined the administrative decision as: (the administration's disclosure of its binding will with its authority under the laws and regulations with the intention of creating a specific legal center that is permissible and possible when it is motivated by the public interest) (13), and what is noted on what the Egyptian judiciary stated in terms of Definitions It combines the elements of the administrative decision with other topics that are not of its essence, as the decision comes in harmony with the laws and regulations and that its place is possible and legally permissible and that the purpose of the decision is to seek the public interest, these are conditions related to the validity of the administrative decision, which leads to confusion between the administrative decision And the defects that may lead to nullification or non-existence (13).

In Iraq, the Court of Administrative Judiciary presented a brief definition of the administrative decision, saying that it is: (a legal action issued by the administrative authorities that would affect the legal positions) (14).

This definition is criticized because it is a comprehensive definition, but it does not prevent that the actions of the legal administration may be issued by a single will and may be issued by more than one will, so that the will of the administrative authority is one of them, and this definition did not indicate that the legal actions should be issued by the single will of the administration, which makes it valid Also for the administrative contract.

Second: the jurisprudential definition of the administrative decision

French jurisprudence presented many definitions of the administrative decision that differed according to the angle from which each jurist looks at the administrative decision. Several definitions of the administrative decision differ according to the purpose of the definition. There is the material criterion for the administrative decision, which looks at the content of the administrative decision. The administrative decision is the individual applied decision (15).

There is a formal criterion in its definition. The administrative decision in this case is the decision that is issued by the authorities of the public administration and in light of the administrative methods, templates and formalities (16). With regard to individuals, it is issued by an administrative authority in an executive form, that is, in a form that leads to direct implementation (17), and it is taken into account this definition that it appears as if it limits the administrative decision to decisions that address individuals without those that address the administration itself.

With regard to Egyptian jurisprudence, he also presented many definitions of the administrative decision. The late Dr. Suleiman Al-Tamawy said that it is: (Disclosure of a binding will with the intention of creating a legal effect, either by issuing a rule that establishes, amends, or cancels a general or substantive legal situation where the action is a regulation, or by establishing An individual case or its modification or cancellation for the benefit of the individual or specific individuals or against them in the case of an individual decision, and whether the decision is organizational or individual, it is possible to cancel it and compensate for it if it is implemented or

its implementation results in damage) (18), and Dr. Mahmoud Hafez also defined it as: (legal work issued by the administration alone or by one of the national administrative authorities) (19).

As for Iraq, Dr. Ali Muhammad Badir, Dr. Essam Abdel-Wahhab Al-Barzanji and Dr. Mahdi Yassin Al-Salami defined the administrative decision as: (a legal act issued by the unilateral and binding will of one of the administrative authorities in the state to bring about a change in the existing legal conditions, either by establishing a new legal center). public or individual) or amending or canceling an existing legal position ( ).

It is noteworthy in the previous definitions that some of them have focused on the characteristics of the administrative decision, describing it as a legal act. At the same time, the definitions mentioned that it creates a legal effect by establishing, amending or canceling a legal center. In fact, we find this defective, because the legal effect is a natural result of the decision being an act. Legal, and every legal act is a direct source of rights and duties, so how to combine two elements in one definition.

Therefore, through the aforementioned, the researcher is likely to define Dr. (Muhammad Refaat Abdel-Wahhab), who described the administrative decision as: (a legal act issued by the sole will of the administration) (20).

Through the previous definitions of the administrative decision, a number of characteristics that characterize the administrative decision can be drawn, through which the administrative decision can be distinguished from other actions. These characteristics are:

The administrative decision is a legal action: the involuntary material actions are not an administrative decision, such as car accidents belonging to the administration, and the voluntary material actions carried out by the administration are not among the administrative decisions. Legal action, in other words, it is a disclosure of the will with the intention of producing a legal effect (21), and legal action is the voluntary action in which the will tends to produce certain legal effects. Thus, the administrative decision differs from the material action (22), and the effect of the administrative decision is its place, i.e. the change that was intended Management events in legal situations and centers.

The administrative decision is issued by an administrative authority: the legal action in order to be considered an administrative decision must, according to the original, be issued by one of the administrative authorities in the state, because the criterion adopted in distinguishing the administrative decision from all other legal acts issued by the various public bodies affiliated with the state is the formal criterion, and as required This criterion is to consider that the work is an administrative act that is issued by one of the administrative authorities in the state, and accordingly, the actions issued by other public authorities such as legislative bodies and judicial bodies are not considered administrative decisions (23).

It is clear from the foregoing that the administrative decision must be issued by a national administrative authority. The State Shura Council Law specified the jurisdiction of the Administrative Judiciary Court to consider the validity of administrative orders and decisions issued by employees and bodies in state departments and the public sector. State departments include central departments such as ministries and other departments, and decentralized administrations. Such as the governorates, municipalities, and public establishments affiliated with the public sector, and we point out in this regard that the Iraqi legislator did well when he mentioned the decisions issued by the public sector explicitly as administrative decisions subject to the oversight of the administrative judiciary, as the issue of the decisions of economic public utilities (industry and trade) has sparked a controversy in both France and Egypt In France, since the well-known ruling in a case issued by the Dispute Court in 1921, the decisions of economic public utilities have been removed from the scope of administrative decisions that are challenged before the administrative judiciary, and the competence to consider appeals addressed to them has been given to the ordinary judiciary (24).

The administrative decision is issued by the sole will of the administration: the administrative decision, in addition to being a legal act issued by one of the administrative authorities, is issued by the sole will of the administrative authority, and this is what distinguishes it from other legal actions

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issued by two sides, which are the contracts that take place as a result of the agreement of the administrative authority with another party, whether it is This other party is another administrative body, a private body, or another public body (25).

And since the administrative decision is issued by the administration's unilateral will, it is thus considered one of the most dangerous privileges of the public authority granted to the administration, as the administration can, by its unilateral will, change centers and legal conditions, and the jurisdiction of the administrative judiciary in Iraq so far does not include only administrative decisions. This was referred to by the Administrative Judiciary Court and the General Authority of the State Shura Council in some of its rulings from that ruling in Case 6 / Administrative Judiciary 994 on 2/4/1994 ratified by the General Authority in the State Shura Council in Case No. 55 / Administrative Discrimination / 994 on 12 / 6/1994, in which it was stated: (And since disputes in administrative contracts are outside the jurisdiction of the Administrative Judiciary Court based on the provisions of Article 7- Second of the State Consultative Council Law No. 65 of 1979, and that is within the jurisdiction of the ordinary judiciary, and since the rules of functional jurisdiction are from public order, and since The distinguished decision adhered to this legal point of view and dismissed the case from this side, so he decided to ratify it and dismiss the discriminatory appeals) (26).

The administrative decision establishes, amends, or cancels a legal position: The administrative decision is an administrative action that the administration intends to carry out to produce a certain legal effect. The administrative decision is to bring about a change in the legal centers or the legal organization. In every organized society there is a legal organization consisting of two elements, the first: a set of legal rules that govern the professional community and regulate its relations, and the second, the legal conditions of individuals, i.e. their positions and their positions in relation to the law (27). Administrative Court in Egypt The legal effect of the administrative decision is that it is to create, amend or cancel a specific legal case (28).

That the administrative decision be final (executive): the description of the decision does not apply to administrative work, and it does not have a legal effect in the external environment unless it has an executive or final character, and has become binding and enforceable and has exhausted all the stages of administrative progression necessary for its legal existence, i.e. the stages of recommendation and suggestion end with it Discussion, preparation of projects, and then approval and ratification by those who have that legally, and the Egyptian administrative judiciary has settled in many of its rulings on defining the meaning of finality in the administrative decision, such as the ruling of the Administrative Judiciary Court issued on February 7, 1956 that: (The judiciary of this court has taken place steadily that The lesson at the end of the administrative decision is its issuance by an authority that has the right to issue it without the need for the ratification of a higher administrative authority) (29).

As for the Iraqi administrative judiciary, it referred to the term final decision. In this regard, we mention one of the fatwas issued by the State Shura Council regarding the duration of the sentence. Calculating the rate of reducing the prisoner's punishment (30).

As for the Egyptian legislator, he put this (final) description of the administrative decisions that fall within the jurisdiction of the administrative judiciary. The Egyptian State Council Law No.

(47) for the year 1972 in Article (10) the competence of the State Council to consider appeals against (final administrative decisions) to add the word (final) to administrative decisions that accept appeals for cancellation, and it was the subject of criticism from a side of jurisprudence, and some of them suggested replacing it with the word (executive) (31), and we do not recommend the use of such descriptions in the Iraqi administrative judiciary, as it does not need to delve into such descriptions, in addition to the fact that the legislator has exempted him from this trouble.

### **The second section: the pillars of the administrative decision.**

It is agreed that the administrative decision is based on five pillars, and that any one of them must meet the conditions of validity in order for the decision to be correct, legitimate and productive for its effects, and we include in this section the details of these pillars:

### **First: Specialization Corner**

Determining the idea of specific competencies for the administration is a result of the principle of separation of powers because this principle does not require defining the competencies of the three public authorities only, but also entails the distribution of competencies within the scope of one authority (32).

And it is possible to define jurisdiction as (the authority of the administration man to do what was entrusted to him within the objective limits (the work that he may perform), spatial (his circle of work) and temporal (the period of directing the competence) indicated by the law) (33).

The idea of jurisdiction in the administrative decision is based on the fact that any administrative decision cannot be taken by any administrative body without specifying it, but any administrative decision must be taken by the administrative body legally empowered to issue it.

In other words, the rules for the element of jurisdiction in the administrative decision are those that specify that a specific decision must be issued by a specific administrative authority, and thus this rule gives the legal authority to this administrative authority to issue this specific decision without other authorities (34).

The pillar of jurisdiction in the administrative decision is the legal capacity or established legal ability of the administration or its affiliated persons to issue specific decisions in terms of their subject matter and the scope of their spatial and temporal implementation (35), and therefore the defect of lack of jurisdiction is represented in the legal inability to undertake a specific legal action as it made it The legislator falls under the jurisdiction of another authority in accordance with the rules regulating jurisdiction (36), and the element of jurisdiction is related to public order, as the judge must rule on it on his own, even if the litigants did not raise it, at any stage of the case, and before adjudicating it, and no person or entity may To delegate its competencies granted to it by virtue of the legislation to any other person or entity unless it is permissible under the law, and the administration may not violate the rules of jurisdiction with the excuse of urgency, and the invalid decision may not be corrected by a subsequent procedure from the legally competent authority, and it may not be waived, and if the appellant waived it, the judge would address it (37), and some jurists liken jurisdiction in public law to capacity in private law, but there is a fundamental difference between the two that is that the rules of competence are imposed in the interest of the individual, but the rules of jurisdiction in public law are imposed in the public interest (38), and the idea of competence is determined by certain elements, which are:

Personal element: that is, the administrative decision must be issued by the authority or the employee specified by the legislator exclusively, as it is not permissible for the decision to be issued by an employee who has not been authorized to issue it. On 3/11/1936 the following (it was found that the charge had been leveled by the Deputy Director-General, and upon clarification it was found that the Assistant Director-General did not authorize the authority of the head of the department of that authority that he searched for in the second paragraph of Article 1 of the State Employees Discipline Law No. 69 of 1936 And since the twentieth article of the law necessitated that the accusation be brought by the minister or the head of the department, it appears from that that the charge was not directed by a legal authority, so the procedures based on that accusation became invalid...) (39).

Objective element: - It is intended for the decision to be issued by the competent employee within the authority entrusted to him, since the legislation is not limited to appointing persons who have the practice of some specializations, but rather appoints for each of them the work that he may practice. (40).

Temporal element: - The rules of jurisdiction often refer to how to exercise jurisdiction in terms of time, so they set multiple restrictions in this regard, which should be taken into account when the administrative body exercises its function or activity or when it takes its decisions, for example, that the administrative member cannot practice what is specified He or his job position has specializations except from the time he assumes the position (41).

Spatial element: - This element is determined by the spatial constituency in which the administrative employee has the right to exercise his competencies in it. The powers of the mayor

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are within the boundaries of the municipality and he is not allowed to transcend them. In this regard, the Iraqi Court of Cassation decided in its decision No. 1244 - Human Rights 1952 the following (upon scrutiny and deliberation, it appeared that the powers exercised The municipality to carry out its duties under the provisions of the Municipal Administration Law is limited to the places within the municipal boundaries and does not encroach on what is located outside the mentioned boundaries...) (42), these basic elements that are required to be available in order for us to say that the administrative decision has been issued by an employee competent to issue it Based on this, we suggest that Dr. Al-Tamawy define the specialty by saying that it is: (the authority of the administrative employee to carry out what is entrusted to him within the objective, spatial and temporal limits set forth by the law).

### **Second: the shape corner**

The general principle is that it is not required that the administrative decision be issued in a specific form, unless the law stipulates that, so it may be issued in writing, and it may be verbal, as is the case with the oral instructions issued by the head of the department to his subordinates, or it may be by signal, as in the traffic signal for the traffic police to stop or go. Or it may be with a symbol (such as traffic signs) (43), and it may be with silence, as in the case of the administration's silence. The administration may deliberately not disclose its will and not respond to the requests of individuals with the intention of harming their interests. Therefore, the legislator in order to protect the interests of individuals from the administration's intransigence, considers the administration's silence or Its refusal to respond is tantamount to accepting the requests of individuals, i.e. announcing its will. In this regard, what was stipulated in the second paragraph of Article (35) of the Civil Service Law No. 24 - for the year 1960 by saying (the competent reference must decide on the resignation within a period not exceeding thirty days and the employee is considered discontinued by its termination) as well as what was stipulated in the first paragraph of Article 5 of the Associations Law No. 1 - for the year - 1960 by saying (the association is established after thirty days have passed since its founders submitted a notification by them to the Ministry of Interior and attached to the system) (44).

The administrative judiciary and jurisprudence have settled that the administrative decision is not subject to a specific form and that the administration, unless the legislator specifies a specific form for the decision, can show it in any form it chooses. 12/12/1950, when it says in it: (The administrative orders have no forms or types that limit them, but rather they are merely an expression of the competent employee of his will to act in a clear manner in a specific matter and for the purpose of his job within the limits of his competence - and the administrative order does not have to be valid Or in conformity with the law - rather, the administrative order has a status as soon as it is issued in a conclusive and executive way, and it is permissible to appeal it from every interested person) (45).

As for Iraq, it is noted that Law No. (106) of 1989 considers the violation of the form and procedures to be among the defects that could be a reason for appealing against the administrative decision.

### **Third: the corner of the shop**

What is meant by the administrative decision's place is the legal effect that the decision has on the legal centers of individuals, either by establishing, modifying, or canceling a public legal center, or by establishing, modifying, or canceling an individual legal center (46), so the administrative decision's place, then, is the change it brings about in the existing legal situation at the moment of its issuance He establishes a new legal position or amends or cancels an existing one, for example, the appointment of an employee whose place is to include a person in the organizational position of the position he occupies, and the decision to license driving a vehicle, whose place is to allow a person to drive a vehicle in the streets and public roads. It is usually called by the name of its place, so it is said the appointment decision, the promotion decision, and the decision to impose a penalty. The Administrative Court in Egypt defined the place of the administrative decision as: (the center in

which the will of the source of the decision is directed to its events, and the legal effect that ensues immediately and directly, and this effect is the establishment of a specific legal situation or Amending or canceling them, and thus the legal place of work is distinguished from the physical place of work, which is always a material and factual result) (47).

It should be noted that the effect of the administrative-organizational decision differs from that of the individual decision, because it deals with individuals in their capacity and not in themselves, while the individual decision generates individual legal positions, in other words, it arranges acquired rights for the individuals concerned with it themselves (48), and it is required in the place of the decision Certain conditions must be met in order for the administrative decision to be sound, namely:

- A. That this shop is possible from a legal or realistic point of view.
- B. That the subject matter of the administrative decision be legally permissible: - This means that the legal effect that the decision creates is permissible in accordance with the existing legal rules, and that it does not conflict with legal texts or general legal principles, and if it contradicts, it defects the administrative decision and makes it subject to cancellation (49).

#### **Fourth: the reason corner**

Several judicial and jurisprudential definitions were received for the reason element in the administrative decision, including the definition of the Egyptian Administrative Court in its ruling issued on December 24, 1953, in which it says: (The reason in general is the factual or legal situation that justifies the intervention of the administration man with his binding authority) (50).

And the French jurist (Bonnar) defined the reason as (a specific situation or a legal or material action that raises the decision and constitutes the reason for its existence) (51).

As for the position of the Iraqi judiciary regarding the reason element in the administrative decision, it should be noted that the regular judiciary was extending its control over the reason for the administrative decision when Iraq was adopting the unified judicial system and after the establishment of the Administrative Court by Law No. (106) of 1989, the second amendment to the Shura Council Law State No. (65) for the year 1979, Iraq has adopted the dual judiciary system, similar to the countries that adopt this system, and there are many decisions issued by the Court of Cassation in this regard (52).

The Court of Cassation and the Court of Administrative Judiciary exercised control over the element of reason in other decisions, as did the Council of General Discipline (53).

It should be noted that there are two conditions that must be met in the reason for the administrative decision, namely:

The reason for the decision must be valid until the date of issuance of the decision. For example, an employee submits his resignation request to his department and then changes it. Nevertheless, a decision is issued by the administration to accept his resignation.

That the reason be legitimate according to the law: - As the law specified specific reasons on which the administration relies in issuing its decisions, and the administration relied on a reason other than the reason specified by the legal text, then its decision is subject to cancellation due to illegality (54).

It should also be noted that the administration is not obligated to mention the reason for the administrative decision unless the law stipulates that, but if the administration mentions the reason for the decision, then the mentioned reason is subject to judicial oversight, in terms of its real existence, legal qualification or legality, in terms of proportionality or suitability between it and The effect he ranked (55).

#### **Fifth: the purpose corner**

The administration man must aim to achieve the goal that the legislator intends to achieve with these decisions, so if the law does not specify a specific goal for the administrative decision, then the administration man must aim by issuing it to achieve the public interest in general, as the goal is (the final result that the administration wants to achieve by Through the direct impact generated by the administrative decision it issues) (56).



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And just as it is required in the decision issued by an administrative authority to be issued with the aim of achieving the public interest, it is also required that the administration adhere to the special goals that the legislator sets for it when making its decisions, otherwise it becomes defective by abuse of power if the administration violates the specified goal, even if it invokes targeting the public interest (57).

The abuse of power appears in two cases:

The first case: - that the administration intends, by its decision, to abuse its legal authority by pursuing a goal that is different from the public interest, and it was intended to achieve personal benefit or revenge, and among the examples in which the administration's negligence to achieving the public interest appears clear is targeting a personal interest or using its authority with the intention of revenge or the use of power For a political or partisan purpose, and in this regard the Supreme Administrative Court in Egypt ruled: (The decision to dismiss the plaintiff from the contested service was issued in an unusual way that indicates a dispute in his regard between the Ministry and the President of the Republic at the time, and the administrative authority did not provide anything to deny that despite the establishment of sufficient appointments For this purpose, this supports the truthfulness of what the plaintiff says about the aforementioned decision, that it was issued with a partisan motive) (58).

The second case: - that the administration does not intend to deviate from observing the public interest, and by its decision it achieves a goal other than the goal wanted by the law, and then its decision is incorrect (59).

### Margins

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2. According to this criterion, a distinction is made between laws as legislative acts issued by the legislative authority, and regulations as administrative acts, in view of the authority issuing the work, regardless of its content. For more, see: Hisham Muhammad Al-Badri, *The Legislative Role of Parliament in the Administrative Field*, Dar Al-Nahda Al-Arabiya, Cairo, 1997, p. 277.
3. Ahmed Heba, *The Republican Decree on the Law and the Means of Its Oversight*, Dar Al-Ittihad Al-Arabi, Egypt, 1973, p. 118.
4. Suleiman Muhammad Al-Tamawy, previous source, p. 127.
5. The jurist, Kari de Melburg, developed these characteristics based on the principle of the supremacy of the authority that approves the law, which is the legislative authority represented by the people, over the authority that comes from regulations. For more, see: Mahmoud Muhammad Hafez, *The Administrative Decision*, Dar Al-Nahda Al-Arabiya, Cairo, 1990, p. 195.
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49. Maher Salih Allawi al-Jubouri, Principles of Administrative Law, previous source, p. 183.
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51. Ghassan Hassan Dawood, Cancellation of the Administrative Decision for Illegality, previous source, p. 147.
52. Suleiman Al-Tamawy, The General Theory of Administrative Decisions, a comparative study, Dar Al-Fikr Al-Arabi, Cairo, 2006, p. 200.
53. Abd al-Hamid Abd al-Mahdi, The Effect of Changing the Facts on the Legality of the Administrative Decision, a master's thesis submitted to the Council of the College of Law, University of Baghdad, May, 1997, p. 16.
54. We mention among the decisions of the Court of Cassation the decision issued on 30/5/1968 in case No. 150 / human rights / 1967, and the summary of the case is that the Baghdad Court of First Instance had issued a decision on 10/31/1966 and the number of files (1649 / b / 966) prohibiting opposition The defendants are the Minister of the Interior and the Minister of Health in addition to their job for the plaintiff... in extending or renewing his passport or canceling the decision of the Minister of Interior in addition to his job not to extend or renew his passport, and the Court of Cassation ratified this ruling with the cassation decision 2866 / human rights / 966 on 4/24/1967 And because the Minister of Interior - in addition to his position - was not satisfied with the aforementioned decision, he asked for it to be reviewed for correction. The decision of the Court of Cassation stated that the decision required to be corrected was based on valid reasons. This is because the corrected one who had obtained == the passport is a student in the Faculty of Medicine and after graduating from it became a doctor and entered the military service as a lieutenant in the reserve doctor, and during his military service he obtained his military referential leave to travel outside Iraq to spend this leave The competent authorities - and he is in this capacity - did not impersonate any capacity other than his real capacity when renewing his passport, see: Maher Saleh Allawi Al-Jubouri, Principles of Administrative Law, previous source, p. 177\_178.
55. For more rulings and decisions, see: Maher Salih Allawi Al-Jubouri, Principles and Provisions of Administrative Law, previous source, pg. 178 et seq.
56. Ghassan Hassan Dawood, Cancellation of the Administrative Decision for Illegality, previous source, p. 147.
57. Rana Yassin Hussein, previous source, p. 11.
58. Khaled Khalil Al-Zaher, Administrative Law, previous source, p. 189.

59. Diao Sheet Khattab, Iraqi judiciary oversight of administrative decision, research published in the Judiciary Journal, fourth issue, thirteenth year, Al-Ani Press, p. 36.
60. Rana Yassin Hussein, previous source, p. 12.
61. Among the judicial examples related to the abuse of power is what came in the decision of the Administrative Court in Iraq, in which it says: ((As the Revolutionary Command Council Resolution No. 1333 of 4/12/1984 authorized the ministers and governors the power to detain any employee upon proving his failure to perform And since the functional relationship between the plaintiff and the defendant has been severed with the issuance of an order deeming the plaintiff to have resigned from the position, and since the decision of the Revolutionary Command Council above applies to the employee who continues to serve and retains his capacity as an employee, and therefore the decision of = = the defendant to detain the plaintiff lacks legal support and is marred by arbitrariness, which Requires its annulment, Decision No. 36 / Administrative Judiciary / 998 on 7/5/1998 mentioned by Ghassan Hassan Daoud, annulment of the administrative decision for illegality, previous source, p. 148.

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