Administrative Sanctions System in the Context of Contemporary Criminal Policy

نظام العقوبات الإدارية في سياق السياسة الجنائية المعاصرة

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Date of submission: 16/02/2023 Date of final acceptance:29/12/2023 Date of publication :december2023

Abstract:

In light of contemporary criminal policy trends, legal experts have expressed concern about the overuse of punitive weapons, also known as "punitive inflation," which is the result of increased criminal intervention to protect various social interests arising from cultural and industrial development.

For that, legal experts have emphasized on the need for punishment and sanctioning rules to be minimized and applied only in situations where their absence is the only way to achieve social control.

Keywords: administrative sanction, system, criminalization, policy, reduction, transition…

ملخص:

أدى الإسراف في استعمال السلاح العقابي أو ما يعرف بـ " التضخم الجزائي" بسبب زيادة التدخل الجزائي قصد حماية المصالح المجتمعية المختلفة التي تولدت عن التطور الحضاري والصناعي، إلى دق ناقوس الخطر من طرف فقهاء القانون، الذين طالبوا بضرورة التقليص من استخدام قواعد التجريم والعقاب قدر الإمكان، واستخدامه فقط في الحالات التي يكون تدخله هو الوسيلة الوحيدة لتحقيق الضبط الاجتماعي، ومن هنا ظهرت أهمية العقوبات الإدارية كمظهر لسياسة الحد من العقاب، وتعاظم دورها في تقديم البدائل الناجعة في ضوء اتجاهات السياسة الجنائية الحديثة.

الكلمات المفتاحية: عقوبة إدارية، نظام، تجريم، سياسة، تخفيض، انتقال...

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Introduction:

According to some, if criminal policy stays the same, crime will continue despite all security measures (administrative statistics on recorded crimes are the most easily accessible type of data), and punishment is only effective when there is a possibility of punishment.[(i)]

Because of this, the most important feature of criminal policy is that it develops as a result of its control over the variables that govern it, including social, political, and economic developments that have an impact on society as a whole. This problem necessitates a review of the penal system, especially in light of its inability to safeguard interests and dismantle the criminal enterprise, which has led contemporary jurisprudence to demand tighter controls on criminal policy and a shift in the role of criminal justice officials in determining what constitutes a crime.[(ii)]

On the other hand, since this system does not, in legal terms, alter the concept of punishment or the goal of the criminal case, the idea that criminal sanctions should be viewed as an essential tool within transitional justice for dealing with mass violence remains.[(iii)] In an attempt to seriously address the shifts that have affected the philosophy and concept of punishment, modern legislation has incorporated the concept of alternative punishments within the framework of contemporary criminal policy.[(iv)] The originality of this system, which distinguishes it from previous legal systems based on substantive and procedural comparative legislation, requires it to achieve its aims through a modern punitive viewpoint.

The criminal penalty is no longer the exclusive way to deal with crimes; instead, it has been relocated elsewhere, under the guise of decriminalization. In fact, there is every reason to think that the administrative repression will once again include the criminal punishments that the lawmaker appears to desire to remove.[(v)] Under the pretense of decriminalization, the criminal punishment is no longer the exclusive means of dealing with offenses. Indeed, there is every reason to believe that administrative repression will reintroduce the criminal consequences that the legislator professes to want to eliminate. As a result, the primary issue with this research is:

Are the general administrative sanctions considered punishments in the literal sense?
Could administrative punishments help current criminal policy achieve its objectives?

Section One: The Concept and Causes Behind the Development of Administrative Sanctions

The eventual result of criminalizing all unlawful conduct was a legislative inflation[(vi)] in the criminalization field, which resulted in major violations that had an influence on the principal goal that societies aim for in light of social, economic, and political developments, etc..., The use of punitive measures by the legislature to address new criminal behavior patterns that emerged as a result of social, political, and economic unrest caused by wars and economic crises, industrial and technological development, the information revolution, and the emergence of new societal values that the legislator had to uphold all had a negative impact on the justice sector and the penal system as a whole.[(vii)]

Since values are the source of and the inspiration for legislation,[(viii)] it has become necessary to adopt modern standards of criminalization and punishment, beginning with limiting the intervention of criminal law by adopting the idea of limiting the administrative penalty, which led to giving the state's public administration the authority to impose criminal sanctions, without referring to the judiciary and courts, with regard to violations against the administration's interests, which led to what is known as the "administrative penalty system.",[(ix)] as a result, everyone should be aware that the frequent legislative changes jeopardize the social balance that the legal system should naturally have in its laws.[(x)]

1. ***The Reason for the Emergence of Administrative Sanctions:***

Criminal policy is teleological, relative, and progressive. This shift is the result of the different factors that impact, determine, and steer criminal policy.[(xi)] The shift in society interests caused by social, political, and economic developments is the first of these factors. Some of them gain prominence as a result of their bias, compromising society's security and demanding the use of the criminal law. On the other hand, some of them cease to be offensive to society and no longer constitute

a threat to its security and stability, demanding no longer the employment of the criminal justice system's penalty, which would be contrary to the act's proportionality to punishment norm.[xii]

In order to sustain the state's continuity and regular and consistent work in light of the unjustifiable growth of the criminal code, which is no longer consistent with the constructed or contrived fresh interests associated with the state's activity. As a result, it was essential to restrict the criminal law's meddling in this field, as well as its punishment, and to replace it with other, more effective punitive choices. As a result, administrative sanctions were created.[xiii]

1.1.Limiting the use of the criminal law:

Early in the twentieth century, the state began to meddle in many areas of life, resulting in the "where the state deliberately launched its hand in the practice of the power of punishment to confront new patterns of criminal behavior" period,[xiv] because "**Ignorantia juris non excusat**"[xv] especially in criminal law, the slightest deviation would be penalized by imprisonment or a fine in the name of upholding society's security and comfort.

The issue of legislative inflation is increasing in the domain of criminal incrimination, which leads to a growth in the number of criminal cases, resulting in the loss of the criminal punishment to its intended objective, particularly deterrence. While many of these deviations do not necessitate imprisonment, a monetary fee that is not punitive in character is adequate.[xvi] Numerous legal specialists have stated that prisons are no longer capable of performing the basic duties for which they were established,[xvii] such as reform, discipline, and crime reduction. Because incarceration regularly corrupts emerging criminals and frequently leads in the conversion of so-called crimes of opportunity,[xviii] into professional crimes,[xix] it has instead become one of the factors leading to crime commission.

Legal scholars raised the alarm and demanded that new boundaries for criminal policy be established by rationalizing punishment in order to reduce the excessive reliance on the criminal machine over the penal solution, citing numerous studies and statistics indicating that the number of reentry has increased globally,[xx] and administrative punishment was one of these alternatives to criminal punishment for many types of offenses in order to achieve the intended goal of eliminating crime, particularly those whose goals can be attained without the disadvantages of short-term incarceration; as a result, administrative sanctions increase the potency of criminal punishments;[xxi] especially in regions where criminal prosecutions are rare because the punishment is so high in comparison to the crime committed.[xxii]

1.2. ***Punishment restrictions:***

The concept of limiting punishment and the need to shift from criminal to preventive punishment, or relying on alternative penalties rather than traditional criminal sanctions, are two of the most important aspects of modern criminal policy, which was necessitated by societal social and economic needs and the expansion of the administration's activity.[xxiii]

There are various methods for reducing punishment, including:

- Removing the criminality term to legalize the activity.
- Reducing harshness by decreasing the punishment and using replacements such as deferring the death penalty, judicial probation, and others.
- Selecting non-punitive alternatives such as compensation and public benefit.
- A complete abandonment of criminal law in favor of another sort of legal framework.

This is not to say that the use of administrative punishments in the context of reducing punishment constitutes tolerance of those who commit crimes that carry a sentence of confinement for a short period of time, but rather to protect children from prison scandals and dangerous offenders who may influence them to become career criminals. As a result, several countries have chosen a strategy of decreasing penalty in accordance with their legislative policy inside the criminal legislation itself, implementing alternatives such as the e-bracelet system and community service, as the Algerian legislature has done,[xxiv] as other nations, such as Italy and Germany, have embraced an administrative penal code strategy.[xxv]

2. ***The idea of an administrative punishment:***

The lawmaker was interested in developing administrative punishments as an alternative to criminal proceedings, particularly when confronted with certain sorts of offenses that cannot be discouraged by penal consequences due to proportionality,[xxvi] despite the fact that the Penal Code previously contained various alternatives to a public litigation, such as reconciliation, fine and penal fine.

2.1. ***Administrative sanctions definition:***

In the beginning, the case law holds that an administrative sanction is a penalty imposed by the administration on people without the involvement of the judiciary in order to preserve social order or the economic system; administrative sanctions do not include any actions that are unfavorable to citizens or impose obligations on them. The latter, however, must be distinguished since they are governed by a specific legal framework; it seems from case law that an administrative punishment presumes the fulfillment of two requirements:

- It must be a solemn judgment issued by an administrative authority acting in conformity with the legislation;
- This decision must be made with the goal of punishing a transgression, not deterring future offenses. In other words, the sanction's objective is repressive rather than preventative; it is a type of non-criminal repression.[xxvii]

Administrative sanctions can be defined in a number of ways, such as "any formal official imposition of penalty or fine; destruction, taking, seizure, or withholding of property; assessment of damages, reimbursement, restitution, compensation, costs, charges, or fees; requirement, revocation, or suspension of license; and taking other compulsory or restrictive action by organization, agency, or its representative".[xxviii]

Administrative sanctions must be used to admonish and re-teach a criminal to follow the established legal order, as well as to educate and warn others.

For administrative infractions, the following administrative consequences may be stated and imposed:

a) public censure;
b) a fine; and
c) temporary suspension of the right to perform a certain profession or activity.[xxix]

Many individuals believe that administrative punishments are a combination of criminal and administrative consequences, giving them a distinct personality and distinguishing characteristics, the most notable of which are:

- They are non-monetary fines that are typically monetary or preventive in nature.
- They are subject to the punitive principle.
- They are reserved for crimes committed against non-public conscience and interests.
- They are administrative fines that are enforced by the courts.
- They are either controlled by a special law known as Criminal Administrative legislation, or they are carried out by the administration without the use of a unique legal system.
- On occasion, they are issued by an administrative body in the form of an administrative decision.

2.2. ***Administrative Sanctions: Characteristics and Forms***

Administrative sanctions are defined as a phenomenon imposed by the requirements of balance in the daily life of the administration's various activities... which made the administrative sanction have features that define their characteristics and represent its subjectivity, and these characteristics are defined in that it is expected by an administrative authority, and it is of a deterrent nature, and it is also of a general and constructive character, as a result, administrative sanctions are classified into three types: administrative sanctions based on financial obligation (administrative

fine), personal administrative sanctions (deprivation of rights and privileges), and in-kind sanctions (confiscation, shop closure...).[xxx]

Administrative sanctions have different characteristics depending on how they are viewed; on the organic side, the competence is held by taking it to an administrative body, and on the one hand it aims to achieve deterrence as a penalty for individual law violations, while on the other hand, the possibility of application is characterized by generality.

- ***Administrative punishments are issued by a governing body:***

They are not limited to countries that have implemented the administrative penal code system, but also to countries that do not have an integrated system for administrative crimes, and administrative and criminal legislation provides administrative authority[xxxi] the right to decide administrative sanctions. This is not a violation of the judiciary's jurisdiction nor a violation of the idea of separation of powers; evidence for this is that the judicial authority is the one who decides on some administrative issues and chooses to suspend some of its functions... It is necessary for the validity of the jurisdiction to impose the administrative penalty, and any breach of these conditions would render administrative sanctions illegal, so when applying administrative sanctions, the principle of competence must be considered as a principle that governs the administration's activity.[xxxii]

- ***Broadness of administrative sanctions:***

General administrative sanctions do not entail the creation of a specific connection between the sanctioner and the administration, making them more analogous to criminal punishments... Administrative sanctions are categorized as general for the following reasons:

- Administrative sanctions becomes more sophisticated and professional.
- Administrative sanctions consider the areas of competence and capabilities of the various control authorities.
- Administrative sanctions are more compatible with the features of a free market and are more suited to discouraging transgressions related to.
- Administrative sanctions are viewed as a flexible and effective replacement for criminal punishments since they are more adjustable and quick to change.[xxxiii]

- ***The administrative penalty has a deterrence effect:***

Administrative fines are deterrent, hence it was decided that instituting administrative enforcement increases deterrence due to increased projected penalties,[xxxiv] **i.e.** they are a deterrent to any positive or negative activity that violates a legal text or an administrative order, impacting a specific interest, whether it affects the administration itself or whether the administration is in charge of arranging it... The most serious is an attack on an interest[xxxv] that has attained its importance in the eyes of the legislator, an aim that demands its preservation, whomever has that interest... the administrative interest is not taken into account, and the punishment remains administrative.

2.Forms of administrative penalties

Administrative punishments come in three non-custodial varieties:

2.1. Financial penalties (administrative fine)

A fine is a penalty that compels a guilty individual to pay an amount of money to the public treasury after an offense has been committed. If the payment dates are not met, the fee may be raised..[xxxvi]

It is applicable in criminal (rarely), correctional (as a principal penalty in addition to imprisonment), and contraventional (as an exclusive principal penalty) matters, but some critics have argued that administrative sanctions are, regardless to how regulators and legislators characterize them, essentially criminal or quasi-criminal offenses.[xxxvii]

The sum varies according on the type of infringement. Except for violations in the first four classes, the fine may be suspended.[xxxviii]

The act may retain its criminal form, and the abatement is only available when the fine is paid, or the fine may be the only penalty for the act, with the accused retaining the right to appeal the decision before the court, and this administrative penalty is considered an alternative to the criminal penalty...**(**[xxxix]**)** the administrative fine can take numerous forms, including monetary fines imposed unilaterally by the administration on the offender and reconciliation between the administration and the violation as an important means of resolving administrative difficulties since it gives a quick resolution.[xl]

2.2. Personal administrative sanctions (measures depriving or removing eligibility or privileges...)[xli]

Even in terms of administration authority justifying this type of sanction, it appears difficult and difficult compared to their justification, because this type affects the violator himself more than his financial liability, so subject to the fundamental reservation of being "exclusive of any deprivation of liberty."[xlii]

As a result, analogous law has always limited the administration's ability to impose this type of punishment with legal assurances related to assuring its legitimacy; Financial penalties are represented by the denial of certain rights and privileges that the administration can impose on violators, such as the loss of a driver's license, which is an administrative penalty for failing to comply with the obligations or duties specified in laws and regulations, such as traffic violations[xliii] as well as rejection of a special authorization, qualification certificate (certificate), or suspension of action on a specific activity or execution of defined activities, including removal from the register.[xliv]

2.3. Administrative sanctions in rem or genuine security measures (confiscation, shop closures, etc.)

It refers to administrative sanctions that have an impact on anything, the most common of which are confiscation.[xlv] This type of penalty is focused on the location of the administrative violation, such as if the object of the violation is a facility that was managed in a way that violated the laws and regulations governing its activity, the appropriate penalty for this act is to close this facility or prevent it from continuing to operate when this continuation may endanger public order, security, health, and tranquility.[xlvi]

The administration is left to its discretion in determining the severity of the offense committed and its intentionality or repetition...and given that administrative in-kind penalties are a direct prejudice to the violator's livelihood, which may be his only source of income, it was necessary to follow the proportionality principle before imposing this type of sanctions.

3. Algerian legislator's stance on administrative sanction:

The phenomenon of restricting punishment has had an impact on all modern legislation.[xlvii] Some of them have removed all infractions specified in the penal code from the authority of the administration, allowing it to levy administrative sanctions on them, which is known as Administrative Criminal Law,[xlviii] so the state became having the Penal Code and the Administrative Penal Code, and there are countries that did not adopt a single legislative system to the administrative penal code, such as Algeria, but it has adopted an administrative sanctions system in several areas, and almost all independent administrative authorities, such as the repressive authorities empowered to the Competition Council,[xlix] are authorized to impose administrative sanctions.

The Algerian legislator also used administrative and financial sanctions, such as financial fines and administrative confiscation, and even uses them as an original way to confront acts in violation of laws and regulations, indicating that the Algerian legislator is affected by the system of limiting punishment, because he has paid special attention to the financial fine, which is an effective method in achieving general deterrence, and thus achieving the goal behind the system of limiting punishment.

As for administrative sanctions prohibiting rights, the withdrawal of a license is the most common and is used most often in traffic crimes, and usually all countries, whether they have an integrated system of administrative punishment or not, give the Traffic Department the right to use

this penalty (withdrawing the driver's license), while retaining judicial authority in the field of revoking or suspending the driver's license due to traffic violations.[l]

As for in-kind administrative sanctions, such as closure, the Algerian legislator assigned it to the concerned administration, to confront acts that it deems to pose a threat to public order, provided that the period of closure is temporary and does not exceed 6 months at the most, which is confirmed by the Algerian Council of State in his decision regarding the administrative closure of stores in the case between the Governor of Algiers and Messrs (PM, MR, GG, LM, UG), where this decision enabled the Governor to order the closure of the winery or restaurant for a period not exceeding 6 months, either in violation of laws and rules related to these institutions, either for the purpose of preserving public order.

The judicial authority has the authority to order the final closure, in addition to surrounding these penalties with legal guarantees, which are primarily objective and formal guarantees subject to judicial oversight, particularly with regard to the suitability of administrative sanctions and their proportionality with the violation committed.

As a result, the legal texts that include administrative sanctions are numerous and diverse in Algerian legislation, which may be exploited by some administrative authorities with discretionary power to deviate in the use of their authority, particularly administrative sanctions issued by independent administrative bodies whose decisions are not subject to appeal, which may cause significant harm to individuals' interests.

Section two: Safeguards to administrative sanctions

Despite the positive aspects of administrative sanctions as one of the mechanisms of modern penal policy, they have been subject to criticism from some jurisprudence, which appear to be inconsistent with the principle of the judiciary of punishment, as well as opening the door to the administration's arbitrariness in their imposition; some others believe that the administrative penalty does differ from the criminal penalty in terms of nature, effects, and the party that decides it.

However, some argue that administrative punishment violates the principle of separation of powers and thus prejudices individuals' rights and freedoms, so the administrative pursued does not enjoy the guarantees that he enjoys when subject to criminal follow-up, but this is inadmissible and unsound, so the principle of separation of powers is a flexible principle, and granting the administration the power to impose administrative sanctions is rescindable.[li]

1. The objective safeguards:

The factuality of the punitive character of the administrative penalty implies that it involves a serious threat to the public rights and freedoms of individuals, which necessitates that it be surrounded by adequate safeguards that ensure that it achieves the objectives of this type of sanction in terms of deterrence, without unlawful infringement or prejudice to the rights and freedoms of individuals, by adopting a legislative plan similar to that in the field of criminal law, i.e. providing substantive and procedural guarantees.[lii]

1.1. The legitimacy of administrative sanctions

The principle of legality is one of the fundamental principles upon which the penal code is founded, where ***Nulla poena sine lege***, and that is to protect individuals from criminal accountability for acts that are not criminalized by the penal code, and thus also protect them from being subject to penalties that are not provided by a criminal text, and the same logic governs administrative sanctions, i.e. it is not permissible to impose an administrative penalty in the absence of a clear criminal text..., Given the importance of this principle, particularly in terms of infringing on individuals' rights and freedoms, comparative legislation and Algerian legislators have been keen to respect it in the field of sanctions, through the administration's respect for law and commitment to it, thus the 'legitimate' use of administrative sanctions aimed at achieving compliance with public policy goals without squandering public resources excessively (its efficiency).[liii]

The principle of legality in the administrative field enjoys some flexibility, whether in terms of meaning or consequences..., and the reason for this is due to the modernity of the administrative

penal system and the diversity of its fields...[liv] and accordingly, the legislator has defined exclusively the administrative sanctions that may be imposed, as the administration may also determine some administrative sanctions, because the legislator cannot limit the administrative sanctions for each crime ..., The discretion of the administration is lost if the legislature expressly provides a certain punishment for a specific crime, and the administration in this case only has to follow the prescription of the legislature, otherwise its decision would be null and void. Although it uses its powers to impose administrative punishment (i.e. management), it is also involved in supervision, since it cannot be violated by a legal or regulatory text, the most important of which are:

- Imprisonment is not within the framework of the administrative decision in a criminal case.
- Administrative sanctions do not include confiscation of constitutional rights.
- exclusion of disciplinary sanctions.
- Exclusion of measures resulting from criminal proceedings

1.2. Subjectivity and uniformity of administrative punishment:

The content of the concept of specificity of punishment in criminal law is the same as it is in administrative punishment. The subjective side of the administrative equivalent is, first, the constitutional component of the administrative law infringement and, second, the calculation of the punishment, but when compared to criminal law, which clearly established the position of subjective. , the subjective nature of administrative law becomes fairly murky.[lv]

As a result, the principle of administrative punishment specificity is distinguished by uniqueness, and its violation results in the nullity of the provided effect decision owing to the loss of part of the rationale for its imposition. The French Council of State confirmed the principle of administrative punishment specificity in its jurisprudence when it decided that closing a pharmacy cannot be made because only one of its employees violates the law, provided that the pharmacy is negligent in exercising supervision...and control has not been established.[lvi]

Although there is no clear answer to the question of how the principle of ***ne bis in idem*** should be applied in the relationship between criminal, administrative and tax law.[lvii] Jurisprudence saw a breach of this principle as more serious than a deviation in the exercise of authority since it corresponds with a falsehood, but if one lie receives two punishments, the government has attained authoritarianism. The exception to this rule is that compound punishment, unlike disobedience, does not violate the concept of punishment uniformity .**i.e. recidivism.**

1.3. Proportionality and retroactivity of the administrative penalty:

The proportionality concept is found in administrative law and is applied in judicial actions. According to the philosophy, there must be an acceptable link between the desired outcome and the measures made to achieve the goal. The effort must not be startlingly disproportionate to the court's awareness, otherwise it may be challenged through judicial review…[lviii] This idea imposes two fundamental obligations: rationality and non-plurality. The reasonableness is in picking the administrative punishment, which must be based on the gravity of the action endangering the protected interest.

Although there appears to be international consensus on non-retroactivity in criminal law, the situation in administrative law is more difficult. As a result, the logic that explains the application of the rule against retroactivity in criminal law may also apply in administrative law, so national constitutions may provide that this principle applies equally in administrative and criminal law contexts, but only a few jurisdictions do, such as Ecuador's Constitution.[lix]

Concerning the concept of non-retroactivity of legislation, unless it is more beneficial to the accused, the new law's instant application and non-retroactive application as a general rule, and this principle applies to any punitive sentence, even if imposed by a non-judicial authority; Because an administrative decision involves a penalty, the rule Nulla poena sine lege applies; sanctions cannot be retroactively applied, with the caveat that an earlier consequence would be more advantageous to the norm breaker.[lx]

2. The procedural guarantees:

Administrative fines are administered in accordance with specific processes established by regulatory law documents... There are no unified procedures in the field of administrative sanctions, but there are main lines on which the administration relies that can be concluded from written legal sources or from general principles of law established by the administrative judiciary, implying that there are no essential differences between a criminal sanction and an administrative sanction, and thus administrative penal proceedings can be classified as criminal charges.[lxi]

2.1. Respect for defense rights:

Administrative procedural law grants individuals the right to defend themselves. In addition to the right to a fair and equitable trial and the right to effective administration, the author argues that individuals should be able to protect their legal rights by beginning suitable processes to check the operations of government. The concept of democratic rule of law should be used to derive an individual's right to self-defense. This right can be used through a variety of methods and legal remedies.[lxii]

The constitutional principle of defense rights imposes on the administrative board without the need for the legislator to stipulate it...as the administration imposing an administrative penalty under the supervision of the judge, perhaps the adversarial system is a fundamental procedure in administrative procedures, because it ensures the respect for the principle of equality.... because the violator can, after being notified by administrative decision, discuss the aspects and reasons for imposing an administrative penalty on him, and stated in § 35 of the regulation governing relations between authorities and citizens, § 37 of the same regulation states.: "A citizen has the right to oppose the administration of the instructions given by him, through publications, notes and announcements".

2.2. The presence of administrative and judicial appeal

Administrative appeals and judicial review (court action) are the two major channels for challenging allegedly improper decisions/acts under administrative law. While an administrative appeal seeks to address an issue at the administrative level, judicial review is an adversarial procedure in which a person brings a disagreement with a public authority to the (administrative) courts.[lxiii]

The person affected by the punitive administrative decision has the right to appeal (administrative grievance), which is stipulated in the Algerian Civil and Administrative Procedure Code, and the right to appeal remains permissible unless a text states otherwise, judicial appeals against administrative decisions of a penal nature are heard by administrative judicial authorities, whether administrative courts or the Council of State, and jurisdiction may devolve to the regular judiciary, as with the Competition Council's rulings, which are submitted to the Judicial Council of Algiers, the final chamber in commercial cases.

To mitigate the severity of the penalty resulting from its immediate enforcement, the person subject to the administrative penalty may request that the administrative judge stop the implementation of the administrative decision,[lxiv] if the state of urgency requires it or there are serious doubts about the decision's legality.

Conclusion:

The purpose of this research paper is to explain the reasons for the emergence of administrative sanctions, their concept, and the significance of emphasizing their characteristics and forms under this concept, as well as to examine the extent to which administrative sanctions adhere to the basic principles that will preserve individuals' rights and freedoms in the absence of actual legal guarantees that work on a balance between the state's right and the individual's right.

All of this necessitates investigation into the legal nature of administrative sanctions, and whether they can be considered punishment in the strict sense of the word, on the one hand, and the extent to which administrative sanctions respond to the requirements of modern criminal policy,

which aims to reduce punishment, especially in light of penal punishment's failure to achieve its purpose in light of modern economic and social changes, on the other.

Administrative Penal Law, as Prof. Dr. Yücel OURLU stated above, would be an alternative as a developing field, but there would be some difficulties in establishing this new field, he added, because it is too difficult to use such processes justified by those who have advocated the process as being in the public interest.

Results:

- Some nations adopted administrative sanctions as a stand-alone legal system: the administrative penal code.
- Some nations, such as France, Egypt, and Algeria, have implemented administrative sanctions without building a separate legal framework..
- Administrative violations are always defined in broad and abstract words in legal laws.
- Administrative punishment is the responsibility of administrative authorities, but the authority ultimately belongs to the judiciary, rendering administrative punishment constantly subject to review.
- Administration procedures are surrounded by substantive and procedural safeguards that do not contradict the notion of separation of powers.
- Administrative punishment is a sentence in the purest sense, but it is special in that it applies to new interests.

Recommendations:

- Extending the scope of administrative sanctions in Algeria and establishing an independent administrative law.
- Waiting for Algeria's administrative criminal law system to be established.
- At the very least, some of the extra sanctions permitted by Article 9 of the Algerian Penal Code would be delegated to administrative authorities.

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