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Administrative decision between enforcement and implementation

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Abstract ;

As a public authority geting privileges, one of the most important of these is the issuance of administrative decisions by its individual and binding will, without the need for the consent of the violator of these decisions, which had the legitimacy and legal integrity of the moment they are signed and issued by the administration. thus, the administrative decision is shown to have a special executive force, which is reflected in the fact that, once issued, those decisions can change the existing legal status and thus impose themselves as a compulsory force for those who are directed to them.

In view of the confusion between implementation and enforcement in administrative decisions, this modest article, entitled "Administrative decision between implementation and enforcement", is to highlight the difference between implementation as an internal force in the administrative decision-making..

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1. *Introduction*

To achieve the administrative function, the administration comes in two types of legal works, including the agreement, which is issued based on an agreement between the administration and other parties; the most prominent picture is our administrative contract; as for unilateral actions issued by the administration by its individual and binding will, so that it creates rights for individuals, and it sets obligations in their custody without the need to Their approval, and this is called the executive force of the administrative decision, and the executive property of the administrative decision.

If administrative decisions are an important and effective legal means for achieving the tasks of the administrative position, and if it is a manifestation of the privileges of the public authority, then the enforcement of administrative decisions is one of the most important aspects of administrative decisions because of the prejudice to the existing legal centers of individuals, and the date around which the issue of invoking the administrative decision revolves.

From the above, the importance of the subject of the article marked "Administrative decision between enforcement and implementation", and the importance of disagreement and schedules on defining the executive force of the administrative decision and its enforcement, including determining the lines separating implementation and enforcement in the administrative decision, in line with the nature of the topic.

1. Implementation as an internal force in administrative decisions

To achieve its interventions and goals, the administration issues unilateral administrative decisions that constitute the center of legal capacity and the essential expression of its supremacy (the first requirement), as well as the supernatural authority of the administration (the second requirement(.

1.1 The Administrative Decision is the center of the legal capacity for management and the essential expression of its supremacy

Administrative decisions are distinguished by a special nature that differs from the nature of the activities of individuals, because the administration represents the public interest and takes care of it with the privileges of the common law, and administrative decisions are the center of legal capacity, because it constitutes a privilege for management (1.1.1) It is also a fundamental distinction to its growth For their direct incorporation into the legal system (1.1.1(.

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1.1.1 administrative decision is a privilege for management

Administrative decisions are considered one of the most dangerous manifestations of powers and legal privileges enjoyed by the administration in the exercise of its administrative function, and this appears through the following:

1 1. 1. 1 Administrative decision issued by a public authority

Since the Middle Ages, French common law was based on the idea of sovereignty, which was based at the outset on the idea that the king derives his property from God .

But the French Revolution (1798) worked to change the concept of sovereignty from royal sovereignty to national sovereignty as it considered the law as an expression of public will, and that it is the source or source of sovereignty so that the law has become supreme and everyone is subject to rulers and ruled, which is the expression of the will of the nation.

The administrative authority is the authority that issues the administrative decision, which is the most important means of conduct and the basis for the existence of the administrative public authority itself in accordance with the laws regulating the jurisdiction of the administrative judiciary, which is concerned with examining decisions issued by the various administrative authorities, whether central or local.

An administrative decision is a decision issued by an administrative authority considering that it is a privilege for the benefit of the administration, which it does not have in principle private, and that, as a general rule, it is not issued by the legislative authority, the judicial authority or the political authority, laws, judicial rulings and acts of sovereignty are not considered administrative decisions.

In general, the concept of the public authority to be defined here is that which indicates the legal authority enjoyed by the state agencies and the people who run these bodies, and the administrative decision is not considered that unless it was issued by a public administrative authority, whether it is a national authority or an authority that does not Central, regardless of the nature of the activity undertaken .

1 1. 1. 2 The administrative decision is a unilateral decision

An administrative decision, whatever its type, is a legal act issued by the will of the individual administration, and this element is the basis for the distinction between the administrative decision and the administrative contract, because legal work in the administrative contract does not arise unless the will of the administration and the will of the contracting authority converge with it, while the administrative decision is created and issued Without interference from individuals.

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The administrative decision remains the administration's expression of its individual will, whether this expression of will takes a positive attitude, so the decision in this case is an explicit decision, or the expression takes a negative position, so the decision in this case is an implicit decision.

Also, the administrative decision, whether organizationally or individually, does not require the multiplicity or diversity of the authorities that create it or its issuance, because the establishment and preparation of the administrative decision is carried out by one authority, the executive authority, represented in the source of the decision, regardless of the multiplicity of those involved in its preparation.

2.1. The administrative decision is directly integrated into the legal system:

This title raises a lot of ambiguity in front of intermarriage that makes us in front of administrative actions that are considered administrative decisions affecting the legal status of the filing the lawsuit (2. 1. 2. 1), and in front of actions that are not considered influencing the legal status of the filing the lawsuit (2. 1. 2.2(

2.1.1. administrative decisions affecting the legal position

It is the authority of the administration to assert its right by issuing decisions that, once issued, are able to change the existing legal status, whether by establishing new legal centers, or by modifying or canceling legal centers that existed, so the lesson is then what the administrative decision stipulates from the legal effects and the changes it makes to the centers Legal This is the executive decision.

An enforceable decision is the one that generates legal effects once it is taken without the need for ratification of a higher administrative authority or without the need for jurisdiction.

This characteristic forms the main pillar of administrative relations through which the administration has important legal means. This legal force is manifested in the fact that those actions and decisions decided by the administration individually are directly integrated into the legal system because the decision once it becomes legally in effect produces different effects.

From the above, we exclude from the field of administrative decisions the legislative actions undertaken by the legislative authority, and the judicial work that the judicial authority brings, and we also exclude the total administrative work that the administrative authority comes from because it does not affect the legal centers, and this is what we will separate in the following:

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2.2.1.2 Administrative business without affecting the executive center:

We summarize these works in the following three types :

2. 1. 2 2.2. 1 preparatory or preparatory work:

Before the administration takes some decisions, it resorts to a set of preparatory or preparatory work. These actions are opinions that precede the final decision making, and they do not have the final characteristic of the decision, and it falls within this type of work: advisory opinions, And proposals, warnings and inquiries, and procedures for internal organization.

Advisory opinion:

It is considered among the works that are subject to ratification by the presidential authority, and therefore it has no executive status and cannot be challenged with cancellation, while the presidential authority's decision endorsing the opinion of the advisory body is considered an executive management decision, which can be subject to appeal or cancellation.

Counseling takes three types:

Optional counseling: It is a non-binding advice that the administration gives before issuing the administrative decision without being obligated to it according to a legal text .

Compulsory counseling: It is the opinion in which the administrative authority is bound by its request regarding what decisions it wants to take, because the law requires it to be resorted to, and counseling is considered a formal legal procedure in the administrative decision, and if the administration neglects or refrains from that procedure, its decision is defective.

2.1. 2.2.2 Alerts and inquiries:

Warning is an act whereby the administration requires the individual to perform a specific obligation or perform a specific action , it is a preparatory procedure in which the seizure element is hidden, meaning that it does not include orders and prohibitions, and from it does not rise to the level of the administrative decision, and this matter applies to the decisions that the legislator requires before issuing the concerned inquiry The matter, to inquire about the absence of management from the management.

2.1. 2.2.3 Procedures for internal organization:

It is the internal administrative work related to organizing administrative work, as it does not rise to the degree of executive administrative decisions because it lacks the structural

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element that is characterized by the decision , and it takes many pictures such as instructions, publications, and interest directives .

Instructions and publications:

They are internal administrative measures, the main topic of which is the organization of administrative interests, and they are measures that employees, not individuals, adhere to and do not compromise their interests and positions given that they are the correct interpretation of the laws. They are only acts that reveal something that was present.

Interest directives:

They are only directives reminiscent of legal and organizational rules and are not considered administrative decisions as long as they do not have legal effects, that is, they do not affect the legal positions of individuals.

2.2 The administrative decision serves as a supernatural authority for management

An administrative decision, as soon as it becomes legally effective, the person who is interested in the decision must consider it compulsory, because he enjoys the external legitimacy (2.2.1) and the internal legitimacy (2.2.2).

2.2.2: The external staff to ensure the legitimacy of administrative decisions

The external legitimacy of the administrative decision is embodied in the jurisdiction of the jurisdiction (2. 2. 1. 1), and the corner of the shop (2.2. 1. 2). These elements are distinguished by the fact that the authority in it is often restricted and there is no room for appreciation in it.

2.2. 1. 1. Jurisdiction:

The pattern of jurisdiction devolves from what the law gives the employee the right to practice certain activities specifically. These are the jobs that the job he occupies that are commensurate with the nature of his qualifications and the quality of his experiences and capabilities, so specialization is the cornerstone upon which the administrative decision is issued by the person legally competent .

According to the foregoing, the jurisdiction can be defined as: The legal authority that the source of the decision has in issuing it within the objective, spatial and temporal limits that are defined by law .

The element of competence in the administrative decision is one of the results of the work of the principle of separation of powers, on the basis of which the idea of distributing jurisdiction between the various administrative authorities.

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Jurisdiction is one of the most prominent tools of administrative organization in the state and a way to support the specialization of members of management. In this context, Dr. Sulaiman Al-Tamawi sees: “Limiting the employee’s work to a specific type of behavior allows him to master him throughout the practice .”

So for the administrative decision to be legitimate, it must be issued by the authority or the person who owns the jurisdiction, and if the administrative decision was issued by the authority or from a person not competent to issue it, this decision was defective with the disadvantage of lack of jurisdiction, meaning that the defect of lack of jurisdiction is a violation of the functional jurisdiction of a body Towards a body or from a person toward another person .

And the defect of lack of jurisdiction is one of the oldest defects adopted by the State Council, and this if it indicates something but indicates its importance, just as the defect of lack of jurisdiction is the only defect related to public order, which the judge can raise automatically even if the opponents did not raise it , nor is the administration's ability to abandon From her legal competence and her mandate is not delegated except by the law , and there is no justification for her departure from jurisdiction except in the case of exceptional circumstances .

The defect of lack of jurisdiction takes two forms:

The first image: the disadvantage of simple lack of jurisdiction: lack of jurisdiction is simple if it is located between the various administrative authorities, and then it is called an attack on the jurisdiction or exceeding the jurisdiction, and it appears in the following cases:

- The defect of lack of spatial competence: It is the responsibility of the executive authority as a general principle to exercise its jurisdiction within the geographic scope specified to it by the legislative and regulatory texts in effect.

It can be said that there are two types of specializations that are determined based on the spatial concept. On the one hand, there are specializations that extend at the level of all national soil, and here the matter relates to the competencies of the central administration, and on the other hand there are the specializations that are limited to a specific geographical area, that is, at a regional level Moein, and here the matter relates to the jurisdiction of the local administrative bodies.

Thus, if the members of the executive authority exceed the spatial range in which its jurisdiction is restricted, then those decisions are tainted by the disadvantage of spatial lack of competence, which is a very rare image, in order to show the spatial limits of the jurisdiction of each authority .

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The disadvantage of lack of temporal jurisdiction: According to this type of jurisdiction, administrative authorities cannot issue administrative decisions that fall within its jurisdiction except during the time space permitted by law. If the administrative man made an administrative decision and exceeded the time limit in which a law allowed the administration man to exercise his jurisdiction, such as issuing The employee makes an administrative decision during his annual leave, here the decision is defective with the deficiency of the specialty.

Defect of lack of substantive jurisdiction: This defect is achieved when the administration issues a decision in a matter or field in which the law does not have the authority to report on, but rather is subject to other administrative authority. Among its applications:

- An administrative entity encroaches on the competencies of another administrative body of the same level, such as issuing a decision by a minister whose other minister is competent to issue it.

The will of the trustee exceeds the powers of the decentralized authority.

- An inferior administrative body violates the competencies of a higher administrative authority.

And if the jurisdiction was originally a person, that is, the person with the jurisdiction is the one who personally assumes the powers conferred on him by the law, except that the law provided an exception to this principle in order to ensure the regular and steady progress of public facilities, this exception is reflected in the delegation, meaning that the owner of the original jurisdiction delegates others to exercise some powers And the delegation must be in a legal text, i.e. a law authorizing the delegation, as it is required to be partial and not total, because the authority of the authority cannot delegate to others in all the authorities, and it must also issue a decision to delegate that specifies the type of delegation and the subject of the delegation, and whoever is granted authority cannot The mandate is to delegate to others, so do not authorize others Flashing.

The second image: the defect of gross lack of jurisdiction: It is called the term rape of power or job, and this defect is carried out by the person who undertakes tasks without issuing a legal decision to appoint him, such as the issuance of a decision to impose criminal fines by the head of the Municipal People's Assembly, which is within the jurisdiction of the court, for example, as well as Issuance of the decision of an ordinary individual who does not have any administrative authority, - with the exception of the actual employee theory - a form of gross lack of jurisdiction.

In both cases, the administrative decision is not only null, but non-existent, and therefore does not produce any effect in application of the saying, "All that is built on falsehood is false."

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2.2 1. 2 Format and Procedures:

The corner of the form in the decision means the external appearance of it, or it is an expression of its will within the scope of its authority in order to have a legal effect , and the aim of obligating the administration to follow certain formalities is to ensure the proper issuance of decisions and protect the public interest and the interests of individuals together.

And if the administrative decision is the image in which the administration empties its will, the administrative decisions as a general rule are not restricted in a specific way, or that the decision is issued in a specific form unless the law stipulates otherwise , the administration here has discretionary power to choose the appropriate form of its administrative decisions so it is written Or verbally, except in cases where the law stipulates the necessity of issuing some types of decisions in a particular form, as is the case, for example, in the necessity of causing some administrative decisions. In such a case, the omission of the form required by law leads to describing the decision as defective in terms of form, and then it is exposed To challenge. In the element of the form of the administrative decision, a distinction must be made between the fundamental formalities of the decision and the non-substantive formalities of the decision. The first is only the consequence of the cancellation of its violation, because the legislator obligated the administration to follow it, but it omitted that, while the non-substantive formalities for which no legislative text was mentioned and confirmed, Its omission has any legal effect .

As for the procedures, they are the legal stages and steps that the administration is obligated to follow and perform before, at or after the issuance of the decision. For example, a notification procedure or a consultation procedure, i.e. consulting a specific body defined by law in order to ensure the correctness of the decision.

In conducting the consultation, the administration may find itself obligated, before issuing the administrative decisions, to refer to legally defined bodies to take their opinion on one of the issues that pertain to the decision, and the law may sometimes even obligate them to take an opinion.

2.2.2 Internal Staff to ensure the legitimacy of administrative decisions

The internal pillars of the administrative decision are represented in the reason (2.2.2.1) and the place and the purpose (2.2.2.2), and unlike the external pillars, the discretionary powers appear clear.

2.2.2. 1 reason

The reason for the administrative decision means the legal and material elements that drive the administrative authorities to take their decisions .

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Dr. "Sulaiman Muhammad Al-Tamawi" knows the reason as "a factual or legal case that is far from the man of the administration and independent of his will, that he must be able to intervene and make a decision ."

It is this fact that drives the administration to make a specific management decision. There is no relationship here to the personal self-desire of the administration or its will. In general, this incident may be material (earthquake - flood) threatening public order and stability in society, which requires management intervention and movement to take the necessary measures to prevent the spread of infectious diseases that are in the event of natural disasters.

The incident may be legal, such as disciplining an employee and issuing a decision regarding expulsion, based on the discretionary management authority in determining the work issued by the employee, which constitutes an error that necessitates the disciplinary decision.

Management, in the exercise of this wide discretionary power, has discretionary power, so that it is free to adopt the appropriate and appropriate decision to confront the natural disaster and the error committed by the employee.

And the jurisprudence and the administrative judiciary are required for the safety of the reason upon which the administrative decision is based to be legitimate, i.e. the incident does not contradict the provisions of the law, as well as to the reason to be real i.e. that it is based on a physical or legal fact that exists an actual existence and not merely a suspicion or insolubility, as required that the incident is still present on the day the decision was issued, and if the administration issued its decision and the reason does not exist or it was present and illegal, then the decision is defective with a specific reason .

2.2.2.2. The place and the end

The place is the immediate, immediate effect that the administrative decision ranks, and that is by creating, amending, or canceling an existing legal center. The place of the decision that is the subject of the decision is its essence. The place of appointing a person in a certain position is to place the employee in the authority in which he was appointed.

It is required that the shop be specific or identifiable, as it is required that the shop be possible, where the investigation of the shop is in the administration's ability, and the legal effect of the administrative decision must be legitimate, so that the progression of legal rules is respected in terms of its science and its toxicity one after the other, and if issued An administrative decision that does not observe these legal rules was considered an illegal decision, as if the law stipulated certain conditions for assuming a job and was not available in the decision was issued to appoint him, in this case the decision is defective in its place, and this affects the legitimacy of the administrative decision.

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And if the place is the direct and near effect of the administrative decision, then the goal corner of the administrative decision is the long-term impact of the administrative decision, i.e. the final goal that the source of the administrative decision targets. an investigation of the administrative decision. Providing services to achieve the public interest. If the administration aims to achieve personal personal goals and interests, then its work becomes a physical aggression. Thus, the decision is tainted by the defect of abuse of power and it must be canceled.

The legislator may also determine, for objective considerations, sensitive and serious issues, such as those related to public freedoms, public order and financial interests, and then the source of the decision deviates from achieving it other than that decision, defective with the defect of deviation, which necessitates its cancellation . Thus, the availability of the administrative decision on the elements mentioned above gives the administrative decision the status of legitimacy and makes it enforceable and immune from all forms of administrative or judicial appeals, and thus the administrative decision constitutes a superpower in the hands of the administration.

3. Access as an external force in administrative decisions

If the privilege of implementation is the internal force enjoyed by the administrative decision, through which it works to change the existing legal system without its need for legal force, as it is imposed on those who address it without the need for their approval due to the privilege of the presumption of the legitimacy of the administration's actions, the administrative decision has the power External makes it effective as an asset once it is issued (1.3), and its validity may be suspended because of its association with complementary work on a condition or addition to a term (2.3(.

1.3 Originally, the administrative decision is effective from the date of its issuance

If jurisprudence and the judiciary have settled that administrative decisions are effective against the administration as soon as they are issued, then the question arises as to when the administrative decision is considered enforceable until it is implemented against the administration (1.1.3), and when it is enforceable against individuals (2.1.3(.

1.1.3 The enforcement of the administrative decision vis-à-vis the administration

In order to know when the administrative decision is effective against the administration, it is necessary to research the legal existence of the administrative decision (1.1.1.3), it was touched upon the enforcement of administrative decisions against the administration before its month (2.1.1.3(.

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3.1.1.1. The legal existence of the administrative decision

In order to search for the legal existence of the administrative decision, it is necessary to research the date of the establishment of the administrative decision (1.1.1.1.3), and prove the existence of the administrative decision (2.1.1.1.3(.

3.1.1.1.1. Date of completion of the establishment of the administrative decision:

Jurisprudence controversy erupted about the moment when the administrative decision is completed and becomes correct, producing its legal effects. Jurisprudence is divided into two directions:

The first trend: The owners of this trend see that the enforcement of the administrative decision and its validity starts from the signing of it by the administrative authority competent to issue it, and they considered the month as a later procedure that differs completely from the components that make up the decision and does not need to exist, and its effect is limited to transferring knowledge of it to the concerned parties .

According to this trend, the administrative decision is considered effective from its issuance from the administration, i.e. from the day it becomes complete even if it has not been completed, and the wisdom from that is that the administration issued it and thus knows it, and you cannot pay not to work with the administrative decision, but this decision is not considered It is effective for the right of those who address it, except after they know about it by any means of knowledge .

Taking this direction results in that the date on which the issuance of the administrative decision was completed is a consideration when deciding its legitimacy, and determining the extent of the competence of the source of the decision, as that jurisdiction is one of the conditions for the validity of the administrative decision. With its issuance, the decision site is at the same time its source, regardless of the multiplicity of the participants in preparing it before signing .

The second direction: Among the supporters of this juristic trend, Hauriout, this jurist and his supporters see that it is not enough to complete the existence of the administrative decision merely by signing it, but rather it must be famous, and they go to say that publishing is what gives the administrative decision establishing it and its real history, and that the administrative decision that has not It cannot be implemented by the administration in any way, or even relied upon in making another administrative decision, as it is not a decision that meets the conditions of its validity, but is still a draft resolution, and it is based on that that the means of knowing the decision are included in its legitimacy.

According to this direction, the administrative decision is sound when its elements, the most important of which are the declaration, are integrated, i.e. the administration's announcement of its binding commitment by one of the means specified by the legislator,

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which is publishing in relation to organizational decisions and reporting in relation to individual decisions, and to judge the legality of the administrative decision we return to the date of its month and not to the date of its signature from The competent authority, and therefore the administration can withdraw or rescind the decision without any rights to others.

Also, the administrative decision that has not been published cannot be implemented by the administration, and individuals cannot invoke it because it has not been publicized by the means established by law, or to claim the rights that this decision entails.

The bottom line is that the legitimacy of the administrative decision is complete since it was signed by the issuer of the decision, and that publication or notification is not a component of forming the administrative decision but rather a subsequent procedure, and from it the enforcement of the administrative decision is not binding on individuals only from the date of its publication.

3.2.1.1.1. Proof of Administrative Decision:

If it is established that the administrative decision is effective against the administration as soon as it is issued and without the need for a month, the matter arranges important issues related to proving the existence of the administrative decision on the understanding that it was not publicized to the addressees, and to prove the date of its issuance and on whom the burden of proof falls, on the claimant who relies or Adheres to it, so proving the physical existence of the administrative decision rests with the plaintiff in charge.

Whereas, the issue of proving the legal and actual existence of the administrative decision is a difficult issue, in front of the administration enjoying the powers and privileges that it maintains the administrative documents and documents, and in the face of the inability of individuals to view the papers and documents, the administrative judiciary has established rules and principles in the field of proving the real existence of the administrative decision, and decided that The management may be obligated to provide these documents whenever necessary to settle the dispute.

As for the date of the issuance of the administrative decision, it is of great importance, as it results in the ruling of its legitimacy or not, so that it is decided whether the administrative decision was issued by the competent authority legally and consequently decides whether the administrative decision is correct or not, and the date of the issuance of the administrative decision is of importance related to The rights that arise for those addressed to him against the administration, as it dates back to the date the administrative decision was issued to invoke it against the administration .

Despite this importance that the date of issuing the decision is for the administration and individuals, it may resort to changing the date of its issuance, so that the decision is not

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tainted by the defect of violating the principle of non-retroactivity in administrative decisions, as the administration may resort to providing the date of the issuance of the administrative decision as it was not competent when Its release .

For this reason, the French State Council decided that individuals can prove the true history of the administrative decision to be invoked by any means of proof, unless a legislative text is provided stipulating that an appeal against an administrative decision is forged .

3 .2.1.1Entry into force of administrative decisions vis-a-vis the administration before its declaration:

The issue of enforcing administrative decisions vis-à-vis management in the period between issuance and month raises research in invoking organizational decision (a) and individual decision before its month (b(.

3.1.3.1.1. Entry into force of an organizational administrative decision vis-a-vis management:

Jurisprudence on this issue was divided between two directions:

The first: The owners of this trend went on to state that the organizational decision obliges the administration as soon as it is issued and before its month. Thus, the stakeholders may adhere to this decision in the face of the administration whenever this decision was legitimate.

The owners of this trend were based on the opinion that acknowledges the existence of the administrative decision from the moment it was signed by the legally competent administrative authority, and that it follows that the administrative decision is effective against the administration from the moment of its signing, since the publication of the administrative decision is decided in the interest of those who address it, and not in the interest of the administration that is supposed He learned of this decision, which he is not entitled to invoke in the face of the stakeholders until after his declaration .

In the same direction, the "Al-Jarf " went to the right of individuals to adhere to the decision that was not published from the moment it was issued by the competent department, because there is no need to publish the administrative decision because the administration knows about it and it is its source, but the month is decided only for the benefit of individuals .

Likewise, Professor Suleiman Al-Tamawi went on to take this direction when he decided that: “With the issuance of the administrative decision from the competent authority, and it fulfills its elements, it is implemented in the right of the administration, and this access does not depend on the knowledge of individuals with it .”

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Generally, this trend is characterized by not distinguishing between individual and organizational decisions.

The second trend: the jurisprudence of this trend is that the organizational decision is not implemented until after its month by legal means, and therefore the stakeholders are not entitled to invoke the organizational decision that was not publicized against the administration.

This trend was based on the similarity that exists between the law and the organizational decision, so that each of them includes abstract general provisions that address an unspecified number of individuals, and do not create personal legal centers, but rather create public centers.

"George Vedel" went in this direction, as he distinguished between the individual decision and the organizational decision, and considered that the individual decision arranges rights for those concerned before its publication, and therefore those who address the administrative and organizational decision may not stick to it in the face of the administration before the declaration .

This trend is supported by Dr. Abdel-Fattah Hassan, who believes that individuals are not permitted to invoke organizational decisions before their month in the face of management, and therefore, until the right to invoke individuals with organizational decisions arises, they must have been publicized by one of the legally defined .

2.2.1.1.1.3. The enforcement of the individual administrative decision vis-à-vis the administration:

Most of the jurisprudence goes to agree that the individual has the right to adhere to the individual administrative decision against the administration before his month, meaning that those addressing the individual administrative decision invoke the administrative decision as soon as it is issued by the competent administrative authority, because the decision was made with its knowledge and under its responsibility.

Many French jurists, including "Issac", took this direction, justifying its position on the basis that the theory of non-protest in itself implies asserting that there is no value to invoking a declaration against an individual so that this individual can adhere to the benefit of this decision, and that there is no reasonable cause To disrupt the legal effects of the administrative decision that the individual benefits from until it is published and announced, and therefore the employee may adhere to his proper appointment decision from the date of its issuance, and he may adhere to the rights established by the decision at the time of its issuance .

To explain this trend, the French jurist "Lewalle" holds that since the individual administrative decision since its existence , the beneficiary of it can stick immediately,

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based on that the administrative decision is an executive decision, and this is confirmed by the jurist "Dupuis", who decides that once the decision is signed and before its publication or Notification can be upheld by those who address it and accept the challenge to cancel .

This is the predominant trend adopted by the Egyptian jurisprudence, as Dr. "Suleiman Muhammad Al-Tamawi" went to take this direction, after he posed a question about the eligibility of individuals to demand benefit from the unpopular decisions, where the doctor answered his question positively without distinguishing between the type of decision whether it was Individual or organizational .

3.2.1. The enforcement of the administrative decision vis-à-vis individuals

The enforcement of administrative decisions vis-à-vis individuals means the time period in which administrative decisions begin to generate legal effects from the date of their knowledge through publication (3.2.1.1) or notification (2.2.1.3(.

3.1.2.1.: Publishing

Publishing is the way in which stakeholders are informed of administrative decisions, and publication mainly concerns organizational decisions, usually in the Official Gazette.

Professor Dr. Suleiman Al-Tamawi defined publication as one of the means of the administrative decision month: “The administration follows certain formalities in order for the public to know the decision, and the rule is that if the law stipulates a specific method, the administration must follow that method .”

And some of the other jurists defined publishing as: “a set of measures that are taken with the aim of informing and informing the public of a new procedure, while Dr. Fuad Al-Attar went on to state that publishing is“ announcing to people, including stakeholders, of the contents of the decision issued by the administration so that they are aware of it ” .

The administrative judiciary in Egypt has been subject to defining what is meant by publication as one of the means of the administrative decision month, as it was stated in the ruling of the Egyptian Administrative Court that «publication is not necessary for the validity of administrative decisions or their enforcement and is not intended only to inform others of its content until it is an argument for it and opens a date for requesting its cancellation» .

In general, through definitions, it can be said that publishing is the legal means imposed on the administration, the purpose of which is to inform the public and the addressees of the decision and publication must be in the official newspapers or in the official bulletins issued by public authorities, or in local newspapers, or comment in public places.

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But if the legislator interferes and specifies a specific means of publication, the administration must follow it. In this, the Supreme Court says: “It goes without saying that if the administrative administrative decision is of a legislative nature, it is not enforced against individuals except from the date of its publication in the Official Gazette, that is a constitutional constitutional decision. ” .

The publishing procedure is required to reveal the content of the decision, i.e. the publication must be complete, including the decision with all its contents, and all that matters to all is their knowledge of the decision, so that the stakeholder can be fully aware of it, and this is only if all the decision has been published , With all the necessary data

In implementation of this, the Supreme Administrative Court in Egypt ruled that the contested judgment did not mistake him in accepting the contested lawsuit against her in the form of what he had rightly decided that it was attached to the deadline, as there was no evidence to publish the decisions that were challenged or announced with them or with their knowledge of the knowledge that enriches them. For them, which must be certain certainty of all its elements, on the basis of which it can show its position in relation to them, and determines, on the basis of that, its way to challenge it.

Thus, for publishing to fulfill its purpose, the administration must publish the decision in its details and its reasons, if it is one of the decisions that must be caused, so that the concerned parties become aware of it.

3.2.2.1. Reporting:

Reporting is an important issue because it has implications for the entry into force of the administrative decision, and thus the validity of the appeal period for cancellation. Reporting is then the key without which judicial disputes cannot be examined, so that many judicial files remain on the margins of the courts administration pending the completion of notification procedures .

By reporting, Dr. Suleiman Muhammad Al-Tamaoui means: “Notifying individuals of the decision through management”, or it is the way in which the administrative decision is transferred to the knowledge of the individuals concerned with themselves .

Some also used the term advertising to express reporting, and as a result of this the advertisement was defined as the means that guarantees individuals' knowledge of individual administrative decisions affecting their own legal centers, and advertising is made by all known means of advertising, it may be through a record, or by mail or by handing the decision to Concerned person .

If notification is considered the primary means of achieving knowledge of individual decisions, then notification and information are done through various means, whether by mail, telegraph or in a personal capacity.

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With the great development in the field of electronic means, the various departments use these methods to run their facilities and communicate their decisions, so that the administration may send the administrative decision via the website to the stakeholders, and if this electronic means is delivered, it is faster and more accurate than other mail means, but it has been subjected to severe criticism from The party of jurists, because this method does not lead to the knowledge itself, but rather is contextual to the knowledge only, because the message may not be delivered electronically to the person concerned due to a malfunction in the site or it arrives late .

This may be notification by receipt, by an administrative employee who will pass to the persons concerned with the decision to inform them.

Whatever the method of notification, however, it is necessary that it be done in a way that enables the concerned person to fully know the decision, or at least in a way that guarantees that the decision is reached in person, so that he can know his decision, and this is what the French State Council approved by saying "the postal notices related to receiving a letter It is recommended that it be considered presumptive of the advertisement until proven otherwise« ....

3.2. Postponement of Administrative Decisions

Originally, as previously indicated, administrative decisions are effective from the date of their issuance in the face of the administration, and from the date of their announcement and publication in the face of those who address it, except that some decisions may be enforced due to their association with complementary actions (1.2.3) or because they are dependent on a condition or added to a period (2.2.3(.

3.2.1. Entry into force of an administrative decision connected with complementary work

The enforcement of an administrative decision may be related to complementary actions, such as suspending the enforcement of an administrative decision to obtain ratification (first), or to take measures that define the conditions for its application (second(.

3.2.1.1 Suspending the Entry into Force of an Administrative Decision to Obtain Certification:

It is known that every administrative decision that has arisen in order to arrange a legal effect, through which the administration seeks to achieve its goal which is the public interest, and the administrative decision means a final unilateral legal action, i.e. issued by the competent administrative authority once and for all without the need for approval or approval from a higher authority.

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And when the administrative decisions are final, they are covered by the form of access, which is one of the most important features of administrative decisions, which means the executive power that it enjoys.

Decentralized authorities are subject to the supervision of the central authority, and some forms of this control are subject to the approval of the central authority, to be ratified by the central authority, and this approval may be explicit as it may be implicit, according to what the law stipulates. If the law stipulates that ratification is explicit, the presidential authority must ratify This type of decision is an explicit endorsement, and this is stipulated by the state law of 2012, which states: “The deliberations of the state’s popular assembly are only carried out after approval by the minister in charge of the interior. The same law also implied approval, so that it stipulated that the deliberations of the popular assembly My state is in force by law after the 21 hrs after deliberation .

3.2.1.2. Suspending the entry into force of an administrative decision to take procedures that define the conditions for its application

It may not suffice to implement the law merely by issuing it, rather it requires issuing regulations that define application conditions (1.2.1.2.3). Also, regulatory decisions may include provisions that are not directly applicable and thus require regulations to determine the conditions for their application (2.2.1.2.3(.

3 .2. 1.2.1. Suspending the Entry into Force of Legislation:

This happens in two cases, the first: the legislation provides for the issuance of a system to implement it, because it can only be applied after the issuance of executive regulations. As for the second case: It is the impossibility of applying the law without issuing a system that specifies applied conditions.

It is stipulated in these regulations that their issuance be at a reasonable time, and if there is a delay in the issuance of these regulations, it means delay in the application of laws, including restrictions on its executive power, which affects the principle of gradual legal rules and puts the legislator in a state of dependence on the executive authority, and this is what the Council decided The French state is in one of its rulings, where it has been exaggerated to delay a period of four years, five years, or nearly seven years, since the application of legal texts, where the claim for compensation in such cases finds justification, given that the administration has exceeded the reasonable period « .

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3.2.2.1.2. Suspension of the Effectiveness of Organizational Administrative Decisions:

Regulatory decisions may include texts that are usually not directly applicable, and therefore necessitate the issuance of other regulations to determine the conditions for their application, at which time the application cannot be delayed even if it provides for complementary measures.

But if the organizational decision requires complementary measures before taking these measures, so that this affects its legitimacy unless such measures are taken, such as the necessity for the executive authorities to present them to Parliament for approval, because of their importance and gravity because they affect public interests.

The Algerian legislator has addressed this in Article 111 of the current constitution (2016), which states: The President of the Republic signs armistice agreements and peace treaties and receives the opinion of the Constitutional Council on the agreements related to them, and immediately submits them to each chamber of Parliament for approval ...

Article 142/2 also stipulated that: "… the President of the Republic shall present the texts he has taken to each chamber of Parliament in his first session for approval…"

3.2.2. Entry into force of an administrative decision suspended on a condition or added to a term

The general rule, which is the origin, is that administrative decisions apply from the date of their issuance in the face of the administration, and from the date of their publication or notification in the face of individuals, except that the administration may suspend the validity of the administrative decision on the condition (2.2.2.3), and it may be added to a term (2.2 .2.3(.

3.2.1.2 The enforcement of administrative decisions suspended on a condition

The condition in the framework of the administrative decision is a future matter that is not fulfilled by the direction of the administration's will to postpone the entry into force of an administrative decision. Whenever an order is achieved in the future, the pending decisions on a condition will not be implemented unless that condition that you commented on is fulfilled .

And the condition can be a standing condition, and it may be a bad condition, and the pending decisions are defined as a standing condition that they are not effective upon issuance, but their enforcement is subject to the fulfillment of the condition upon which

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the decisions were suspended, and from it the decision does not arrange its effects unless that condition is met, and examples of these Decisions We have a promotion decision whose enforcement depends on a standing condition stating that if the employee is referred to the disciplinary committee, he will not benefit from the promotion unless it is proved that he was not convicted .

The condition is void if the disappearance of the administrative decision depends on its existence, for example, the administration grants a license and suspends its existence, its enforceability on the survival of a specific case and if that event continues to expire, the effect of the decision, i.e. that the fulfillment of the annul condition leads to the end of the validity and absence of the administrative decision.

And it is stipulated in the condition - standing or abusive - that the matter on which the administrative decision is commented is legitimate and not contrary to public order and public morals, and if it is not so, then the general rule in this regard is to build a sound administrative decision with the invalidity of the condition that was associated with it, and also must The purpose of this decision is to achieve the public good .

Likewise, in the matter to which the administrative decision is commented, the matter must be in the future and possible, because otherwise the condition is not fulfilled in terms of probability or failure to happen, so the condition may not be a past or present order, otherwise the decision was accomplished effect, in addition to that it must The condition is possible because commenting on an impossible condition is invalid .

3.2.2.2. Entry into effect of administrative decisions added to time

Jurisprudence of the special law was defined as: “A future matter of the occurrence of which will result in the fulfillment or termination of the obligation .”

Also, administrative decisions added to time are defined as those decisions that are issued with correct elements and conditions and are associated with a specific and specific term, which may be annuling time or later.

A standing term is the one that entails the fulfillment of the obligation, and the decision is suspended on a standing order with a consequence of the term solutions that came into effect at the end of this period without the need for a decision or judicial ruling to expire, and among the examples of administrative decisions associated with a standing date, we have the organizational decision issued to promote an employee when Completion of the legal period In this case, the administration postpones the effects of the administrative

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decision to a date later than its issuance, and it is issued on a certain date and its entry into force until another specified date in the future .

As for the abusive term, the solution to the obligation results in the expiry of the obligation, and it is often in the licenses granted by the administration and determined at a specific time, the decision to license ends with the expiry of this period, as if a decision is issued authorizing the concerned person to build and has a certain period in which to implement it, and once the term comes to an end the validity of this license To extend the term, another request must be re-issued and a new license issued for a new term.

4. Conclusion:

After the issue of implementation and enforcement was discussed in the administrative decision, I came to highlight the difference between implementation and enforcement.

Implementation constitutes an internal force stemming from the nature of the administrative decision in the executive capacity, through which the administrative decision creates rights for individuals, and it entails obligations in their responsibility, without the need for their approval, and without interference by any authority, and it also entails the obligation of individuals to respect administrative decisions for their enjoyment of the presumption of legitimacy.

As for enforcement, it constitutes the functional engine of the administrative decision to transfer the legal position that the decision has brought to reality, and to show its effects to work and implementation, that is, the administrative decision is considered legally enforceable when it is capable of causing its effects from the date of its enforcement, then the enforcement is the date around which the issue of invoking the administrative decision revolves around.

Finally, we recommend not to confuse the term implementation and enforcement in an administrative decision, and to pay more attention to this type of issue to clarify the terms and not to confuse them.

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