

administrative objective and administrative decision: a legal conceptual study

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Abstract:

Through its various administrative activities and administrative control of public utility, public administration seeks to serve the public interest. These administrative activities can only be achieved by relying on legal tools and procedures that are either individually executed through an administrative decision or implemented on a contractual basis through an administrative contract.

Public administration takes into account in the process of issuing the administrative decisions the external legitimacy of these decisions which is represented in its conformity to legitimate form, procedure, and specialization. It also takes special consideration to the internal legitimacy of decision-making in terms of context, reason and objective. This paper focuses on the notion of administrative objective on a conceptual basis in relation with its application in law and decision-making.

key words: administrative decision, administrative objective, administration, decision-making, law.

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Introduction:

Public authority executes its power through material or legal actions. “Administrative decisions” are the manifestations of the legal actions that are issued by public authority or public administrations. Administrative decisions are distinguished from administrative contracts that are issued by the involvement of the administration with another partner in order to arrange certain legal effects. Administrative decisions are also the most important manifestations of the privileges of the public authority estimated and granted to public administration. It derives from the public law and seeks through them to achieve the public interest (Awabedi, 2003, p10).

There are many attempts by jurists in administrative law to define administrative decision. Among these definitions is that of Fouad Muhanna, who defines administrative decision as:

A legal action from one side, issued by the will of one of the administrative authorities in the state, and creates legal effects by establishing a new legal situation, amending or Annulment of an existing legal situation

Professor Horio, on the other hand, defines it as: “a unilateral declaration of will issued by the competent administrative authority in an enforceable capacity and with the intent of producing a legal effect.” (labbad, 2006, p236)

The Egyptian Court of Administrative Judiciary defines administrative decision from a judicial perspective as: “the disclosure by the administration, which is determined by the law, of its binding will, with its authority according to the laws and regulations, with the aim of creating a specific legal position whenever it is possible and legally permissible and the motive for it is seeking the public interest.”(Tahri, 2007, p 97)

Accordingly, the administrative decision can be defined as a unilateral legal action with an executive nature issued by the public authority to create legal effects by establishing, modifying or canceling a legal situation. Administrative decision has basic pillars that must be respected by administrative authority and administrative individuals and ensured and monitored by the judicial branch of the government or namely the judge.

Within this perspective, there multiple pillars of the administrative decision that include: the specialization, the form, the context, the reason, and the objective. The specialization of the administrative decision refers to determination of the administration and its announcement of certain administrative decision that will be executed according to a set of specialized rules and regulations. The form involves the administrative attention to the compliance of the decision to the authorized forms and legal procedures. The

context describes the direct legal consequences of the decision. The reason is the legal and real-life circumstances that precede the decision and determine the reason for its existence (Al Akili, 2008, p 49).

The objective of the administrative decision is the focus of this paper. This paper deals with the definition of the administrative objective, its conceptualization and its relationship with the Algerian laws and regulations. It answers many questions such as: what is the definition of the objective of the administrative decision? Is administration committed by the power of law to comply with the objective of administrative decisions? What are the legal ramifications of the inability to comply with administrative objective?

To answer these questions, the descriptive and analytical approach were employed. This paper is divided into two sections whereby the first section deals with the conceptualization of the objective in administrative decisions in relation with the Algerian law and the second section deals with the legal ramifications in the Algerian law of refusing to or being unable to comply with this principle in the process of decision-making.

SECTION I: THE CONCEPT OF ADMINISTRATIVE OBJECTIVE

In this section, the concept of administrative objective is defined in the first requirement and its sources are described and explained in the second requirement.

The first requirement: the definition of the objective in administrative decision.

The administrative objective is generally defined the desired end result that the administrator seeks to achieve by implementing an administrative decision. Bonar defines it as: "the final result that the administrator seeks to achieve through the direct impact generated by his work" (Al Tamawi, 1991, p350). Dr. Ammar Awabedi define the objective as: "The long, final and indirect impact that the administrative decision-maker is targeting in his decision, and the objectives of the administrative decision that revolve around achieving the public interest." (Aawayedi, 2003, p 77)

In the field of public employment for example, the disciplinary decision issued to impose a penalty on an employee as a penalty for the functional violations he committed is caused by the violations that led to the imposition of the penalty i.e. the administrative decision here involves the imposition of the penalty and its effects on the employee. The objective of the administrative decision, in this case, is serving as a warning so the employee does not commit the same violation in future (Tahri, 2007, p 112). Both the administrative decision and its objective revolve around serving the public interest in an appropriate manner. The administrative objective differs from the direct result of the decision

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or the legal effect resulting from it. The objective of the decision to appoint an employee, for example, is not to place a person in the legal position for this job, but rather to ensure the functioning of public facilities (Dhanibat, 2003, p 216).

Likewise, when the state governor issues decisions pertaining to the municipality under the title of the authority of subrogation, exercising this authority in cases other than urgency, the governor would have issued a warning to the concerned mayor with the objective of protecting property and civilians. The mayor, in this case, inactivity or inability to serve the public interest would be what is referred to as “administrative reason” that would entitle the intervention of an administrative authority and the replacement of the previous authority, the mayor in this case, by another authority to maintain public order (Boudiaf, 2007, p 166).

Hence, the administrative objective is the intended final result (Al Akili, 2008, p 63) that the public administration aims to achieve through its execution of the administrative decision (Al Houlou, 1996, p 514).

The second requirement: the administrative objective

The second requirement includes the sources of the administrative objective. This requirement is divided into two sections: the first section which is devoted to targeting the public interest and the second section includes the rule of allocating goals.

Section one: serving the public interest.

The general rule that governs all the actions of the administrative authority is the service of the public interest in all administrative decisions. Otherwise, its decisions will become illegal especially if the decision is directed toward serving a personal interest or favoring certain individuals over others (Bessiouni, 1993, p 129).

The goal of administrative action is to achieve the public interest in itself and any sub goals that are also intended to achieve this objective (Khelifa, 2003, p 325). In the case of the existence of multiple objectives of a particular administrative decision, the administrative authority must choose among these objectives the one that most achieves the public interest (Baali, 2005, p 83). This is what came in the text of Article Six (6) of Decree No. 88-131 of July 4, 1988 regulating relations between the administration and the citizen as follows: “The administration always ensures that its tasks and structures are adapted to the needs of citizens. And a good service must always be put at the disposal of the citizen.”

Section two: the rule of allocating objectives

If the general rule stipulates that all administrative decisions, without exception, must target the public interest, then there is another rule that

complements it. This second rule requires that administrative decisions must belong to the authorized administrative decisions that a certain administration specializes in i.e. the specialized objectives that the legislator has designated and authorized within a specific field (Khelifa, 2003, p 358). This process is referred to as “allocating objectives” and it involves allocating a specific objective with a specific scope for a certain administrative work. In this case, the administrative decision must not only target the public interest, but also the specific objective that the law has designated for this decision. This particular rule entails restricting the administrative decision to a certain degree to the specific objective that is specific to it. This means that even if the general objective was to serve the public interest, any administrative decision which objective falls outside the authorized specialized objectives for the administration is invalid and illegal. Any administration, based on the second rule, must allocate the objectives of its administrative decisions to match with its specialized administrative profile that was specifically designed for it (Kanaane, 2002, 287).

The specification of objectives for each administrative body is generally extracted from the legislation and jurisdictions. However, in the event that the legislator does not directly specify the authorized objectives for a certain administration, it is the role of the judge to determine these objectives by interpreting the legislative text. This process is done by referring to the preparatory work and explanatory memorandums and following up the discussions that took place on the law (Ziani, 2007, p 23).

In general, administrative bodies should not only ensure the service of public interests when making administrative decisions but also allocation administrative objective in a manner that respects the scope of administrative authority and ensures specialized administrative objectives. In other words, the administrative decision should be restricted by its adherence to both public interest and the rule of allocating administrative objectives (Hania, 2007, p 60).

SECTION II: THE PENALTY FOR THE FAILURE TO RESPECT ADMINISTRATIVE OBJECTIVE

All administrative decisions should take into consideration administrative objective that are designed according to the fundamental rules previously mentioned. Failure to do so is seen as a deviation from the authority. The penalty for the failure to respect administrative objectives and its rules is discussed in this section of the paper.

The first requirement: deviation from authority and its characteristics.

This requirement is concerned with the definition of deviation from authority (section one) and its characteristics (section two).

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Section one: Defining deviation from authority.

Deviation from authority is a broad concept that many researchers tried to define. Some French researchers and jurists, for example, define deviation from authority as: "...the use of a certain authority by an administrative body in order to achieve a goal other than that for which this authority was granted by law." (Khelifa, 2003, p 275). Georges Vidal on the other hand, defines it as "representing the administrative authority's use of its powers in order to achieve a goal different from the goal set for." (Al Akili, 2008, p 78) In Egypt, the jurist Suleiman al-Tamawi believes that deviation from authority is apparent when "...management uses its authority to achieve a purpose that is not recognized by law." (Ziani, 2007, p 5)

In Algeria, Professor Ahmed Mahiou suggest that deviation from authority describes the case when "...the administrative authority uses its authority to achieve a goal other than the one that was granted to it." He also adds that in order to understand this concept, one must necessarily understand the objectives of the administrative objective and its principles. This is what distinguishes the administrative reason from the administrative objective: the reasons are factual and based on legal data and the objectives are the motives that would justify the administrative decision (Miloua, 2007, p 300).

The French Council of State is, in fact, credited with establishing deviation from authority and its relationship with the use of power by the end of the nineteenth century. This comes as an innovative approach to the administrative decision that does not only take into consideration the illegality of decisions and failure to respect reason and procedures as grounds for penalty but also deviation from authority as well. This approach is apparent in the following annulment lawsuits:

- Judgment of the French Council of State of 05/19/1858: the Vernhes case
- Judgment of the French Council of State dated 25.02.1864 in the case of LESBATS (Ziani, 2007, p 6).

Section two: the characteristics deviation from authority.

The characteristics of the power deviation defect can be summed up as follows:

First: the precautionary nature of deviation and the use of power.

The first characteristic of establishing deviation from authority as grounds for penalty and annulment of administrative decision in terms of the use of power is its precautionary nature. This nature entails that deviation from authority alone, even in the case of the absence of other grounds of penalty, is still a legitimate reason for penalty. In this case, failure to adhere to the rule of serving the public interest and allocating administrative objectives still call for penalty and perhaps

even the annulment of the administrative decision. While deviation from authority is difficult to prove because it is related to the intention of the decision makers when making decisions and judges normally verify the legitimacy of the decision in terms that are not objective-oriented, deviation, though rarely, is still taken very seriously once it is proven. Deviation from authority is usually used as a last resort, hence, it is precautionary in nature (Khelifa, 2003, p 278).

Second: the intentional nature of deviation from authority

Some jurists believe that deviation from authority is intentional. This means that decisions makers are aware that certain decisions do not respect the principles of the administrative objective. Because deviation from authority is linked to administrative objective, the intention to deviate from authority and serve another objective that is not legally authorized exists along with the administrative decision in itself. Hence, the decision maker is perfectly aware of the illegal unauthorized intentions when making certain decisions. This makes failure to adhere to the rules of the administrative decision international in nature. The Supreme Administrative Court confirmed by stating that when issuing administrative decisions that deviate from authority, the administration intends to misuse and deviate from power and there is no challenge in proving this intention with general facts that are far from the objective of the decision (Ziani,2007, p 9).

Third: deviation from authority and the use of discretionary power of management.

This characteristic means that this deviation from authority can be considered as a defect in choice. Instead of using its discretionary powers according to the external framework set by the legislator and choosing the goal that the legislator wants when granting authority, the administration misuses this power and chooses to achieve another objective. The discretionary power is granted to the administration with the intention of assisting it in performing its administrative function while allowing it to have enough authority and choice to perform independently. However, its authority and choice are restricted by its ability to guarantee its adherence to public interest when making administrative decisions. Failure to do so is a defect of choice that reflects upon the administration and its objectives.

Fourth: The relationship between deviation from authority and administrative objectives.

Deviation from authority is closely linked to the administrative objectives and serving the public interest. The fourth characteristic of deviation from authority exists within the context of multiple objectives of the administrative decision. In this case, it is sufficient for one of the objectives to be legitimate in order for the decision to be valid.

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What should be noted is that the administration is limited in defining the objectives of its decisions to a general objective that must be taken into account in all its decisions and activities which is serving the public interest and respecting the objectives which the facility was established for that are determined by law. The rulings of the French and Egyptian Council of State have consistently confirmed the close relationship between the administrative objective and deviation from authority when making administrative decisions (Khelifa, 2003, p 308).

Fifth: deviation in the use of power is not related to public order.

The jurisprudence and the administrative judiciary have unanimously agreed upon not considering the deviation in the use of power related to public order. Public order is instead related administrative specialization. This means that the judge does not have the authority to investigate deviation from authority on the basis of preserving public order unless requested by a petitioner. This is due to the difficulty of proving the abuse of power because it is a defect that lies in the intentions and the objective of the administrative decision (Al Akili, 2008, p 88)

We point out that deviation from authority is one of the most difficult defects of the administrative objectives to prove due to the difficulty of detecting deviation. The judge, instead, depends on the legal legitimacy of the administrative decision, the legal text of the decision, a careful detailed study of the documents related to the decision along with the circumstances surrounding it, and a detailed study of the decision-making process and its modalities (Bouhmida, 2008, p 176).

The second requirement: the manifestation of deviation from authority

In the second requirement, we discuss the different manifestations of deviation from authority by addressing the deviation from the public interest, or avoiding the public interest in section one and the deviation from the rule of allocating goals in section two

Section one: deviation from the public interest.

In this section, the manifestation of deviation from authority is discussed in terms of public interest. This section addresses deviation from authority to accommodate personal interests of the decision-maker, deviation from authority in retaliation against others, deviation for political reasons, and deviation to obstruct justice.

First: deviation from authority to accommodate the personal interests of the decision-maker

Decision makers, as previously mentioned, should seek to serve the public interest through their administrative decisions. If these decisions, instead, aim to serve personal interests or prevent others from serving the public interest, then these decisions are no longer within the scope of legality.

Legally speaking, this is considered the worst form of deviation from authority that can be committed by an administrative body. The departure from the scope of legality by intended to serve personal interests rather than the authorized service of public interests is one of the manifestations of deviation from authority (Ziani, 2007, p 13).

Within this perspective, the French Council of State, in its relatively recent rulings, annulled a mayor's decision to approve the municipality's plan to seize the land that he and his family owned with the purpose of altering its status to allow maximum number of building plans on the land. This decision by the council comes as a reaction to the proven deviation from authority by the mayor through the use of his authority to serve his personal interests rather than serving the public interest (Khelifa, 2003, p 338)..

As for the Algerian judicial applications, the Council of State ruled on 04/19/1999 (the case of Tayan Mekki v. the municipality of Awlad Fayet) invalidating the decision of the mayor of Awlad Fayet dated 03/20/1989, which included the sale of a piece of land for the benefit of Mrs. Bousaadi Massouda, because she used the power she was granted to serve the public interests for the benefit of another person instead (Miloua, 2008, 109).

These two cases reflect what is referred to by the Council of State as "transformation of power for personal purposes" in its decision dated 03.05.1999 (the case of the municipality of Barika v. Makki Mabrouk), because the head of the aforementioned municipality granted a piece of land according to a deliberation dated 11.1984.04 in favor of one of his sons, thus committing a deviation of authority in that he used his authority not to serve the public interest, but rather for his personal benefit (Miloua, 2008, p 345).

The Batna Judicial Council also went to the same direction when invalidating an administrative decision issued on 03/22/1987 and was deliberated on 05/26/1987 due to the existence of a deviation from authority. This decision was endorsed by the State Council showing the Algerian attitude toward penalizing deviation from authority to serve personal interests instead of public interest (Miloua, 2008, p 345).

Second: Deviating in power in retaliation against others.

In this form of deviation from the public interest, the administration uses its legal powers with the intention of inflicting harm because of a grudge, hatred or malice toward someone. A good example of this case is when the French Council of State canceled a decision issued by a mayor of a city that involved adjusting working hours at the municipal headquarters. The decision was not done

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for the sake of public interest but was targeted toward a particular employee at the headquarters whom the mayor held a grudge against. The decision was intended to prevent the mayor's secretary, who worked also as a teacher, from teaching by the means of changing the working hours for all the employees. The council concluded that the decision to dismiss the municipal secretary in this manner was issued for personal reasons, not related to the public interest, hence, making the decision defective (Khelifa, 2003, p 344).

Third: Deviation in power for political reasons.

The rule is always that the administration is impartial. This is what the Algerian constitution (the amended and supplemented constitution of 1996) stipulates in Article 23 as: "The impartiality of the administration is guaranteed by law." This is also what we find in the text of Article 41 of Ordinance No. 06-03 of July 15th 2006, which includes the amended and supplemented General Basic Law of Public Service as follows: "The employee must perform his duties with all honesty and without bias." (The constitution of the Algerian Republic, 1996, Ed 2020)

This means that the administration should be impartial - as we mentioned above - in the name of the public interest without being affected by a political party or partisan motives. The deviation from authority in this case when the administration issues a decision for a partisan purpose or political purposes far from the public interest. The administration would be committing deviation from authority for political reasons, for example, if it uses its authority granted to it by the legislative body to prevent gatherings under the pretext of an epidemic while intending to prevent a political meeting opposing the government. Another example is when an employee is persecuted under the name of public interest while he is in fact treated negative due to his/her political orientation. In such a case, the administration's decision is considered an abuse of power and is punished by the power of law (Al Akili, 2008, p 144).

The French judiciary confirmed this trend in many rulings issued by the Council of State. The most recent of these rulings is when it ruled to cancel the decision to dismiss a municipal employee as a punishment for his political views which constitutes one of the forms of deviation from the authority on the basis of politics and political views (Hania, 2008, p 60).

As for the Algerian judiciary, the Supreme Council, the Administrative Chamber, ruled on 10.30.1970, refusing to annul the administration's decision that dismissed an employee on a political motive and not on a job reason inserted by the administration. Otherwise, the Supreme Court ruled, on 09.15.1991, Case B P. v. Minister of Higher Education and Scientific Research to invalidate the decision and to reintegrate the plaintiff into his work position on the grounds of a deviation from the authority (Ziani, 2007, p 17).

Fourth: deviation from authority to obstruct justice

The reason for the judiciary to cancel the deviation of authority, in this case, is that the administration must implement the law accurately and according to the will of the legislators who formulated it, not according to what to personal beliefs or personal interpretations of the law. Administration, in this case, does not have the authority to implement a law in a manner that is not designed to be implemented especially if it does not have the public interest in mind. This is what is known as “the obstruction of justice” (Al Akili, 2008, p 149).

The obstruction of justice in administrative decisions occurs when a certain administrative decision issued by an administrative body is intended to obstruct the implementation of a judicial ruling, to half this implementation, or to make it difficult to implement (Ziani, 2007, p 19). Obstructing justice in this case is inexcusable and it may lead to serious consequences that would threaten the general public order of the administration and harm public interest. Even administrative necessity in this case is restricted to ensure none of the administrative decisions issued are intended to obstruct justice (Khelifa, 2003, p 355).

Section two: deviation from the rule of allocation of goals.

The difference between deviating from the public interest and deviating from the rule of allocating objectives is that in the case of deviation from the principle of allocating objectives, the administrative body is implementing administrative decisions in good faith and only wants to serve the public interest but fails to use the appropriate authorized tools to do so. Administration, in this case, uses means that it does not have the right to use to achieve this public interest.

This means that every administrative decision has two objectives, one of which is specific and is defined by the law and this goal varies in the degree of its determination from one case to another and it always has a general objective, which is the public interest (Khelifa, 2003, p 355).

As for the second, it is more specific and it concerns specialized objectives of the administrative decision. The second objective involves two cases in relation with deviation from authority: the case of the employee's error in defining the objectives and the deviation in the procedures.

First: the case of employee error in setting objectives.

This form has manifestations, as it appears in the administration's deviation from the power of seizure, or its use of its power with the intent of resolving a civil dispute, or the administration's denial of its services to a citizen in order to force him to perform a certain action.

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1) Deviation in the use of the seizure power:

Often, the legislator grants the authority to seize food, raw materials, or housing during an economic or a political crisis with the intent of achieving certain goals. However, the administration may abuse these legitimate powers and uses them for other objectives thus violating the legitimate objectives that was intended by the legislator to use the power of seizure (Al Akili, 2008, p 174).

Some jurisprudence has defined seizure as the process carried out by the administrative authority unilaterally against a legally recognized individual or body. By the authority of seizure, the administration has the right to seize property, service, and land urgent situation in a temporary manner. This act is protected by the authority of public or general interest and is restricted by certain legal procedures that prevent deviation from authority by the administration (Ziani, 2007, p 25).

2) The administration's use of its authority in resolving a civil dispute:

Disputes that arise between individuals are generally the jurisdiction of the judicial authority. Therefore, any attempt by an administrative body that does not have these judicial powers to resolve the disputes is considered a deviation from authority. Here, resolving disputes is not within the administration's allocated objectives but rather within those of the judicial branch. Whether the administrative body is following the rule of public interest or not, it still fails to follow the rule of allocating objective. Hence, any administrative decision in this case is considered invalid and is outside the scope of legality (Khelifa, 2003, p 372).

3) Denying management services to an individual to force him to perform a specific action.

The administrative authorities have a duty towards individuals to provide the services guaranteed to them by law as long as the conditions allow to do so. Delayed performance, whatever its objective is considered a deviation from the authority. This behavior is still outside the scope of legality even if the objective for this behavior is pressuring the individual to pay what he/she owes the state (Khelifa, 2003, p 374).

Therefore, the French State Council ruled to cancel the administration's decision if it uses the authority of administrative control to force the contracting party to fulfill its contractual obligations (Ziani, 2007, p 28).

Second: deviation in procedures:

The manifestation of deviation from authority in this context is represented through the use of a certain legal procedure instead of the appropriate legal procedure that is legally defined in order to achieve the same objective, avoid

some formalities and complications that come with the appropriate legal procedure, or to deprive the second party of their legal rights that are guaranteed when the appropriate procedure is implemented (Selami, 2010, p 124).

Deviation in the procedure takes different forms, as the administration may deviate from the established procedures with the intention of achieving material benefit, or disciplining, transferring or dismissing its employees:

1) Deviating from the authority to achieve the financial interest of the administration:

One of the local administrative authorities may want to obtain financial resources to cover its increasing spending budget without resorting to the state's general budget. Therefore, it attempts to find new sources of revenue or increase the proceeds of the already existing sources. The general objective of this behavior is to improve the service it provides for the citizens that falls within the scope of public interests. However, it may deviate from the authority entrusted to it by following methods that are not authorized by law (Khelifa, 2003, p 389).

Moreover, the administration is given the authority to seize what it needs from the property of individuals so that it can carry out its duty towards ensuring the functioning of public utilities and providing its services to the public. In some cases, the administration may resort to the temporary seizure of a property while in fact it wants to expropriate it to receive financial benefit (Ziani, 2007, p 33). The administration uses seizure as a means for expropriation to avoid the financial burdens that expropriation incurs as the administration in the temporary seizure is only obligated to pay the value of the losses resulting from this seizure and the compensation in the expropriation is immediate unlike temporary seizure. Therefore, the administration prefers to resort to temporary seizure in order to save expenses. Here lies the deviation in power, that is, the abuse of the power of seizure by using it for purposes other than those specified by the legislative body that granted the administration the authority for temporary seizure.

The most applicable case for this manifestation of deviation from authority is the resort of the administration to use the procedure of expropriation in order to build public facilities instead of following the proper legal procedure which is the expropriation of property for the public benefit: the decision of the Supreme Council - the Administrative Chamber - issued in its decision issued in: 02/07/1965: the case of Ain Fakharine Company v. The State (Selami, 2010, p 124).

The Administrative Chamber of the Supreme Court previously held in its decisions issued on 23-02-1998, File No. 157362, Team Q.P. V. against The Governor of Constantine, that expropriation is not possible unless it comes in implementation of operations resulting from the application of systematic procedures such as reconstruction, urban construction, planning, and any operation related to the establishment of collective facilities and major projects

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aimed to serve public interest. Since it was proven in the case that the plot of land subject to the dispute was directed toward private use and private housing units, it is clear that the administration deviated from the established objective behind expropriation. As a result, the Chamber decided to nullify the decision dated 12-26-1989, the decision dated 12-25-1991, and the decision dated 03-19-1995 (Boudiaf, 1993, p 170).

2) Deviating from the authority to discipline and transfer employees and dismiss an employee:

It goes without saying that the active employee is rewarded for his activity with a promotion. However, incompetent employees are punished with an appropriate penalty that is issued by the administration. In order for disciplinary measures to be taken against an employee, he must first be attributed to an administrative error that he committed that requires punishment. If this procedure is not followed, no disciplinary punishment should be imposed even by the appropriate authority. Once the procedures are fulfilled, it is possible to proceed with the appropriate penalties that are approved and established by the legislative body. If the administration, however, fails to follow these procedures in a manner that is authorized by the legislative body, any administrative decision that is issued by it is considered a deviation from authority and is punished by law (Al Akili, 2008, p 164).

Also, the transfer of employees is a discretionary authority of the administration. In order for it to be legitimate, it must stem from the desire to achieve legitimate objectives that are authorized by law. While the administration has the authority to transfer its employees in order to serve the public interest, if it does not follow the appropriate legal the procedures, its decision would be considered a deviation from authority and it is not recognized as a legitimate decision by law. The right to dismiss an employee is also decided by the administration as a manifestation of its authority. However, it is not permissible to use that power to get rid of employees without a legal justification or personal justifications. The French State Council, for example, annulled a decision of the administration to dismiss an employee on the basis of imposing a disciplinary penalty. It stated that the appealed objection of the decision does not represent a dismissal decision to cancel the job a dismissal decision and since the administrative authority illegally excluded the appellant from his job, it would have committed a deviation from authority by not following the allocated procedures for a proper dismissal (Khelifa, 2003, p 432).

Conclusion:

In conclusion, the administrative objective is one of the pillars of the administrative decision. This pillar is regulated by two main rules: the service of

public interests and the allocation of specialized objectives, both of which are necessary for the administrative decision to be legitimate and legal. Failure to respect these two rules is referred to as “deviation from authority”. This paper discusses many forms of deviation from authority and its relationship to administrative objectives and administrative decisions. Our study addresses the different characteristics of deviation from authority in relation to administrative objectives, the most important of which is its lack of connection to the system. Deviation from authority can occur when the administration attempts to accommodate personal interests of the decision-maker, deviates from authority in retaliation against others, deviates for political reasons, and deviates to obstruct justice. Deviation also occurs in terms of allocation specialized objectives in the case of the employee's error in defining the objectives and the deviation in the procedures.

While deviation from authority is difficult to prove due to many reasons that are discussed in details in this paper, deviation from authority is still taken very seriously by law to ensure public interest. Any violations that exist outside of the scope of legality when making decisions are considered grounds for penalty and annulment of the administrative decision as a whole. Administrations must take into account all aspects of the administrative objective, its principles and its relationship with the use of power and authority when performing its role and serving the public. Administrative objective is a vital element of the administrative decision.

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