

ADMINISTRATIVE DECISIONS: CORRECTION THROUGH LEGISLATIVE POWER

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ABSTRACT

This article aims to find out whether Saudi legislator adopted method to post correct administrative decisions through legislation. The study used a critical comparative approach to clarify Saudi's position concerning this issue. The study conducted that although the matter is common in some Arabic legal system such as Egyptian and Jordanian legislations. The current practices of Saudi legislation affirmed that legislator applied this exception approach in certain cases. The study concluded that post correction whether through legislative power or executive power should not be exercised broadly as it constitutes a breach of separation of power principle.

Keywords: Administrative Decision, Post correction, Afterwards Correction, Legislative Power

INTRODUCTION

The question that arises here is: Is it legal for the legislative power to correct administrative decisions after being issued? Although such a question could be a clear breach to the separation of power principle, however, it can be said this theory used to be very common in prominent western legal systems, namely, French and Swiss legal systems. In order to answer the main question of this article, the author seek to present an overview of the legal system in Jordan and Saudi Arabia. Subsequently, examples will be presented to clarify legislator position in both states. eventually, a critical analysis will be conducted with results and recommendations.

THE CONCEPT OF SUBSEQUENT CORRECTION THROUGH LEGISLATION

The legislator sometimes obliges the administration to take certain formalities and procedures before issuing the administrative decision, such as conducting an investigation and hearing the statements of the person concerned or taking the opinion of a certain party on the subject of the decision. (Najm, 1981)

Therefore, the administration has to abide by this, and in the event that the administration does not abide by these formalities and procedures, the legislator stipulates the invalidity of the administrative decision if the formality or the procedure that the administration neglected is fundamental so that it affects the subject of the decision and detracts from the rights of individuals. (Abdelaziz, 2013)

Therefore, the subsequent correction through legislation is intended for the administration to correct its administrative decision in accordance with the legislation, the system, and the instructions regulating the issuance of this decision in accordance with the form and procedures established for it. (Shgehi, 2018)

In order of the foregoing, the disciplinary sanction decision issued by the administration without following the investigation procedure is defective in its form for violating one of the principles of the law whose application has been settled by the judiciary. The same form, unless the legislator has organized a method to amend the decision in a way that contradicts the

method of its issuance, as in the case of the investigation, which is a fundamental procedure that must be respected before imposing the penalty and is not necessary when amending it due to the absence of its wisdom. (Al-abadi, 2015)

If the administration amends a decision without following the form in which it was issued, its decision in this regard is defective in the form required by the legislator, which causes it to be null and the person concerned can file a lawsuit to cancel it.

The meaning of correction through legislation may refer to correcting the management man's mistake in using the means to achieve goals, and this is known as deviation in the procedure. (Alhuseny, 2013)

This deviation is represented in the use of some procedures that are inconsistent with the general goal, as the administration here uses these procedures to achieve different purposes from those that it must use to reach the goal or the real purpose, and the administration aims to use these procedures that the legislator intended to achieve a specific end is Evasion of formalities and lengthy procedures or to cancel some guarantees established for individuals. (Burhan, 1984)

The legislator may find that some administrative decisions are not sufficient for the public interest in its broad meaning to be its goal, but rather it requires the administration to achieve through some decisions certain specific goals, and then the administrative decision must not target the public interest on its launch, but also the special goal set by the law This decision is in accordance with the rule which restricts the decision to the specific purpose that was drawn for it

Among the cases in which the legislator has set special goals for the administration within the scope of the public interest are administrative control decisions that must aim to preserve public order with its various elements, and decisions related to public office that must aim for the proper functioning of public utilities

The administrative transfer of an employee from one job to another within the department or to a job in another department as long as the job he was transferred to is not less than the job he was transferred from in terms of grade, salary and job responsibility, and where there is no evidence in the submitted evidence that the appeal decision targeted something other than what

it required In the public interest for the proper management of the public utility, the .decision shall be in accordance with the personnel regulation

The concept of subsequent correction of the defect of form and procedures through legislation may lead to the application of the rules of form and procedures in terms of time

If a new law is issued outlining the procedures to be followed, and the administration has not yet begun to take a decision according to the old law, it shall apply the procedures established by the new law, but if the administration has begun to take some measures and has not issued a final decision in the matter, and a new law is issued It amends the procedures. What is the impact of the new law on the procedures taken? Is it necessary to repeat the procedures that took place under the old law to be completed according to the new law? Or are those procedures considered valid and productive, and the procedures completed in accordance with the new law?

Jurisprudence in this regard has been divided into two opinions. One opinion in Jordan is that the correct situation requires the application of the general rules in the Code of Procedures (Law of Procedures), and it follows that every procedure carried out correctly under an applicable law remains valid unless otherwise stipulated. Therefore, if the procedures that were issued under a previous law have reached specific results, and if a final decision is not issued in the matter, then these results may be adopted, and the procedures completed in accordance with the provisions of the new law. (Najm, 1981)

Another opinion in Egypt was that it is recognized that the laws amending the procedures and the form shall take effect immediately upon their issuance. This last opinion is the one adopted by the High Court of Justice in Jordan, and it is the opinion supported by the researcher, and in this the High Court of Justice says: “The new Municipalities Law has drawn a new method for the expansion of municipal areas that is fundamentally different from the method drawn up by the old law, while the old law Making the expansion matter within the competence of the Municipal Council and the approval of the Council of Ministers and His Majesty the King, the new law gave this authority to the competent minister based on the decision of the Municipal Council by a two-thirds majority of its members and the approval of the governor. Therefore, any expansion that takes place after the entry into force of the new Municipalities Law must take place according to the method drawn up by this The law alone, and this expansion may

not be completed by combining the provisions of the two aforementioned laws, as the provisions relating to how to expand are among the procedures laws, and the general legal rules stipulate that the procedures laws include what came before them if there is no special provision to the contrary. (Burhan, 1984)

In this case, we find that the contested expansion decision was based on procedures, some of which were made in accordance with the old municipal law, and others according to the new municipal law. The decision of the municipal council was taken under the old law by an absolute majority, not by a two-thirds majority of the council members as required by the new law, and based on the Therefore, before ratification of the decision, the minister had to return the transaction to the Municipal Council to proceed with it according to the procedures stipulated in the new law, as long as the coefficients did not acquire the final degree before the provisions of the new law came into force.

THE POSITION OF THE JUDICIARY ON THE SUBSEQUENT CORRECTION THROUGH LEGISLATION

The issue of correcting the defect of form and procedures is not raised except in relation to the form or the essential procedure that was omitted, or was performed incorrectly, because the defect of the form and the essential procedure is the one that is considered by the judiciary and cancels the administrative decision because of it, but for the defect of the form and the non-essential procedure, the judiciary It is not subject to cancellation

Therefore, the statement of whether or not the subsequent correction is taking place regarding the defect in the form and procedures is closely related to the issue of determining the forms in which the administrative decision is issued, and the procedures set for its issuance and an indication of whether they are among the essential formalities or secondary formalities.

The principle is that the administrative body is not restricted to a specific form in which it declares its binding will, but the Jordanian legislator and the Saudi regulator in many cases impose on the administration to empty its will in a specific form, so that the administrative decision becomes defective if the administration does not respect this form.

Accordingly, the Jordanian High Court of Justice ruled: “The rule requires that the administrative decision be issued in accordance with the procedures specified by the legislator and in the form prescribed for it. (Dwydar, 2013)

However, the Jordanian legislator and the Saudi regulator have taken into account not immersing the administration in routine procedures and formalities, which calls for tying it down with these procedures and formalities, which may reflect negatively on its workflow and impede its movement, and accordingly we find that they have balanced the individual's right to obtain a decision Clear, frank, and far from haste on the part of the administration, and between the necessities of work, where speedy decision-making is a sure achievement of the public interest and more preservation of the rights of individuals, than if the administration had followed a series of procedures and was late in issuing its decision. Therefore, the administration may issue its decision orally in some cases. For example, issuing an oral decision to arrest a person in suspicious circumstances indicates that he is committed to committing a certain crime, in which there is an investigation in the public interest, so waiting until the approval of the higher authority is obtained. Adhering to the legal procedures related to the issuance of a warrant of arrest and subpoena means giving the suspect sufficient time to commit his crime. (Najm, 1981)

The wisdom envisaged by the Jordanian legislator as well as the Saudi regulator from obligating the administration to follow the prescribed form and procedures lies in achieving two interests: the administration’s interest, which is a public interest represented in ensuring the proper functioning of public utilities by avoiding improvisation and haste in taking its decisions, and a special interest represented in the fact that the form The procedures in administrative decision are guarantees that individuals enjoy in exchange for the prerogatives of public authority. In this regard, the Supreme Court of Justice ruled, saying: “The administration must abide by the formal and procedural rules required by law on the basis that the legislator aimed from stipulating these rules to ensure the proper functioning of public utilities on one side and the interests of individuals on the other”. (Al Matai, 1991)

The administrative judiciary has traditionally made a distinction between whether the violation in form and procedures is related to the essential conditions that affect the interests of individuals and whether the violation is related to non-essential conditions whose waste does not result in prejudice to the interests of individuals, so in order to determine the nature of the

subsequent correction through legislation Through this requirement, the researcher will show the images of forms and procedures that can be corrected and those that are not allowed to correct, in two branches.

WRITTEN FORMS

In most cases, the administration issues its decisions in writing, because if the tongue is free, the pen is captive to accuracy, specificity and clarity in expressing the will.

First: Place and date of the decision:

If the law stipulates that the decision be taken in a specific place, the administration is obligated to do so under the penalty of invalidity of the decision. However, failure to mention the place of issuance of the decision does not affect the validity of the form of the decision, and then the administration may make a subsequent correction to it. (Jamal, 2004)

As for the date of the decision's issuance, and although mentioning it in the decision has useful practical implications in determining the temporal jurisdiction of the decision's source and facilitating judicial oversight over the decision, it is a secondary formality whose failure does not entail the invalidity of the decision. Hence, the judiciary is not subject to the decision to cancel, and it is conceivable that the administration will carry out the subsequent correction in compliance with what the legislator required it to include in the decision the date of its issuance. (Najm, 1981)

Second: Indicate the grounds on which the decision is based:

This image means mentioning the legal texts on which the administration relied in issuing its decision, but the omission of this formality does not affect the validity of the form of the decision. While complying with what the legislator required in this regard. (Burhan, 1984)

Thus, the Jordanian High Court of Justice ruled in one of its rulings, saying: "The error in mentioning the legal article does not necessitate the annulment of the administrative decision, as long as the council that issued the decision has the power to issue the same decision, amend and correct it". (Drwaish, 1981)

Third: Reasoning for the administrative decision:

Causing means to explain the reasons that led to the decision being taken in its body, and the principle is that the administration is not obligated to give reasons for its decisions unless the law obligates it to do so, in which case it must abide by the text of the law, otherwise its decision will be tainted by a defect in form, for example what is stipulated in Article (40/a/5).) of the Jordanian civil service system to oblige the administration to give reasons for the disciplinary decision taken by the competent authority. (Al Tamawi, 1979)

The established rule in the Kingdom of Saudi Arabia is that the administration issues its decisions without being obliged to state the reasons for the decision unless the law stipulates that the administration must explicitly state the reason in the heart of the decision, and the purpose of the regulator behind obligating the administration to cause is to inform the person concerned with the decision of the reasons for the administration's rejection of the decision, so that it is aware and clear of the position of the administration, in addition to enabling the judiciary to monitor the validity and legality of the decision, (Al Matai, 1991) the reasoning constitutes a basic guarantee for individuals to enable them to clarify the position of the administration and the justifications it gives when issuing the administrative decision. Here we have to differentiate between reason and causation, "the reason is the material or legal incident that, if any, suggests the management man to issue his decision, and it is an essential pillar that must be present in every administrative decision. As for causation, it belongs to the element of form. If the organizer stipulates causation of the decision, he must explicitly state the reason that led to the decision being issued." This decision is based on valid reasons, as long as it was issued free of abuse of power". (Garaf, 1973)

The principle in the administrative decision is that it is correct, sound and legitimate and that it is based on a valid reason that justifies its issuance, and therefore the rule is not to cause the decision except by a text, and in this the Diwan decided (the original in the management's decisions is safety and the employee is obligated to implement what is issued by the administration, whatever his opinion is in the legality of the decision". (Alhuseny, 2013)

However, in another ruling, the Court decided to oblige the administration to state the reasons (with no legal text obligating it) in contrast to what has been established by jurisprudence and the judiciary, so it went in a ruling to it (to cancel the university's decision to end the

scholarship of the teaching assistant to France, and to cancel the judge's decision as it is on an administrative position Because it was not based on valid reasons - it is established that the plaintiff requested to stop his scholarship for reasons he presented to the administration and stressed that it is a suspension and not termination or cancellation - a decision was issued by the university to terminate the scholarship without the scholarship student's approval and without giving serious reasons to justify him making him missing the corner of the reason - and that the department council's decision not to The feasibility and seriousness of re-scholarship of the plaintiff, which resulted in his transfer to any administrative position that is not based on a valid reason that justifies him, and the minutes of the meetings were devoid of the object of this reason - cancelling the two decisions). (Alshahri, 2012)

In the light of the foregoing, the researcher believes that the possibility of correcting the defect of the form and the procedure related to the cause of the administrative decision is raised only as it is an essential procedure that has been overlooked and that the legislator states that it is obligatory, and then the decision and this case is subject to cancellation, but with regard to non-mandatory causation, the judiciary is not subject to cancellation, as the administration can correct any procedural defect in this regard. (Al Tamawi, 1979)

Fourth: Signing the administrative decision:

The signature is one of the basic data that enters into the formation of the written form, and some believe that the written decision must be signed, whether the writing is obligatory or optional, as there is no point in an unsigned decision, as it is the same and null. (Akasha, 1987)

The signing of the decision is an essential formality, and its omission results in nullity if a text states that it is obligatory. For example, Article 48 of the Jordanian Constitution stipulates: "The Prime Minister and the ministers sign the decisions of the Council of Ministers, and these decisions are submitted to the King for ratification in all cases. which this Constitution or any law or regulation established by virtue of which it is required to do so". (Alshahri, 2012)

Hence, the subsequent correction of the administrative decision without signature is not carried out; This is because the issue of covering the defect of form and procedure is raised only in relation to the essential form or procedure that has been omitted, and therefore is subject to cancellation. (Fawzi, 2010)

UNWRITTEN FORMS OF ADMINISTRATIVE DECISION

The unwritten administrative decision is issued in different ways, perhaps the most important of which are: the oral form of the decision, the form in the form of a sign, and silence as an unwritten form in the implicit decision. (Qbylat, 2010)

1. The oral form of the administrative decision: The administrative decision may be issued in an oral form, especially in the field of public office, where the administrative heads resort to the use of the verbal decision formula when addressing their subordinates, but the administration may not resort to issuing the decision orally if the legislator obliges it to be in writing. (Drwaish, 1981)

2. Reference as an unwritten form of an administrative decision:

The signal is a form of expression of management, and there is nothing to prevent, in principle, the decision being issued in the form of a signal directing the person or persons concerned with the intent of creating a specific legal effect, for example the issuance of a decision by the traffic police to prevent or allow traffic. (Al-Abadi, 2015)

3. Silence as an unwritten form of implicit decision:

The legislator considers the administration's silence for a period of time in some cases regarding the requests submitted to it as a rejection or acceptance of the request. For example, the administration has settled a period of thirty days from the date of the employee's submission of the resignation request, as it is considered that an implicit administrative decision was issued to refuse. (Al Alwai, 2013)

In this context, the Saudi Board of Grievances ruled: "The issuance of a decision to draw the plaintiff's attention to the violation attributed to him means that the administration wanted to punish him disciplinarily for that, and that its filing in the plaintiff's service file confirms this intent". (Shgehi, 2018)

As for the forms of procedures in the administrative decision, the procedures to be followed by the administration vary from one administrative decision to another, depending on the nature of the decision and according to what the legislator decides. (Dwydar, 2013)

First: Publishing an announcement on the subject of the decision before making it: An example of this image is what is stated in the text of Article (4/a) of the Jordanian Expropriation Law No. (12) of 1987: “The possessor shall publish an advertisement in at least two daily newspapers declaring his intention to apply to the Council of Ministers after fifteen days have passed. From the date of publishing the advertisement with a request to issue a decision to expropriate the property described in the advertisement and that the project for which the acquisition will take place is for the public interest. (Jamal, 2004)

Second: Taking the opinion of a certain party before making a decision: The legislator may require the administrative authority that issued the decision in some cases to take the opinion of a certain body or committee or to consult a specific individual before making its decision. In such a case, the administration must abide by this procedure, even if the opinion of the advisory body itself is not binding on it, otherwise Its decision was flawed by flawed procedures. (Al Alwai, 2013)

Based on this, the Supreme Court of Justice ruled in one of its rulings, saying: “If the legislator imposes on the administration before issuing a specific decision to consult an individual or a body of bodies, then it must perform this formality before issuing the decision, even if the opinion in itself is not binding on the administration and that its omission constitutes Wasting guarantees guaranteed by law to find an opinion on the side of the minister to use it as one of the guarantees decided by the legislator in favour of individuals, and based on this the invalidity of the administrative decision that did not take into account the above. (Ajarmh, 2010)

In the Saudi system, the civil service system stipulated that an employee may not be transferred from an educational position to an administrative position except after consulting and consulting the Ministry of Civil Service.

The issue of the subsequent correction of the defect in the form and procedures in this case is not raised, because the decision was issued incorrectly in view of the procedures and the form drawn for it, and then this decision is subject to cancellation as long as this form or procedure that was omitted is essential and not secondary. (Nada, 1990)

PLACEMENT

It is a recommendation or suggestion on a specific subject that a certain administrative body submits to the decision-maker before making his decision on this subject, and the placement usually includes expressing an opinion on the subject of the decision from the administrative, technical or legal point of view. (Akasha, 1987)

The administrative decision, and therefore it is not possible to make a subsequent correction in order to cover the defect in the form and procedures that affected the administrative decision. (Fawzi, 2010)

In application of this, the Jordanian High Court of Justice ruled, saying: “The jurisprudence has settled that if the legislator requires a placement in the form specified by the law, regardless of whether this reasoning is binding on the administration or not, the decision issued based on an illegal placement is considered a violation of the law and must be rescinded.”. (Ajarmh, 2010)

In another ruling, she ruled by saying: “... Therefore, if the Technical Committee for Drug Control does not attribute to the Minister of Health the prohibition of circulating the drug in question and/or re-exporting it, then the contested decision of the Minister, which includes the re-export of the drug, is defective in terms of form and necessitates cancellation due to the absence of a placement. (Haykel, 2012)

INVESTIGATION

Investigation means the totality of actions taken by the administration before issuing a specific administrative decision with the aim of clarifying the truth. (Shgehi, 2018)

The field of investigation in the public office is disciplinary trials, for example, what is stated in Article (145/a/2) of the Jordanian Civil Service System, which states: “It is not permissible to refer an employee to the Disciplinary Council except after the formation of an investigation committee in accordance with the provisions of Clause (1).) of this paragraph to investigate the violation committed by the employee,” which is the same as Article (18) of the Saudi Employees Disciplinary System.

The investigation that counts as an essential measure to complete the element of form and procedures in the administrative disciplinary decision as stated in the judiciary of the Supreme Court of Justice: “It is the one that takes place within the limits of the general principles and taking into account the basic guarantees on which the investigation is based, and its wisdom is that it provides a guarantee of safety, impartiality and investigation in the interest of the truth and to ensure It protects the right of defence in order to achieve justice”. (Qbylat, 2010)

The Saudi Board of Grievances decided: “Among the essential guarantees that must be taken into account in the administrative investigation is confrontation, by stopping the accused from the truth of the accusation against him and informing him of the various evidences indicating that he committed the violation so that he can present his defences, and it is necessary that confronting the employee with the accusation serves its purpose as a guarantee It is essential for him - to be done in such a way that the employee feels that the administration is about to blame him if it has evidence of his conviction so that he is aware of the seriousness of his position and activates to defend himself”. (Tahiri, 1999)

In another ruling, the Board of Grievances ruled: “The imposition of a disciplinary penalty on the employee without conducting an investigation with him and hearing his defence stigmatizes the decision to violate the system, which requires its cancellation - the management’s failure to submit the investigation papers with the employee despite its request and delaying several sessions requires the ruling in the case in its case - does not change the This is the statement of the management body that the plaintiff was investigated by the control and investigation body whose letter was referred to in the preamble to the penalty decision - the management body must actually prove the investigation by submitting papers proving that, and if it retracted its decision, its decision was contrary to the system and must be rescinded”. (Drwaish, 1981)

The administration’s omission of the investigation that the legislator required to conduct before issuing the administrative decision makes this decision flawed with a flaw in the form and procedures, and here it is a fundamental flaw that the judiciary is considered and cancels the administrative decision because of it, and then the issue of the subsequent correction of the administrative decision does not arise here, for its uselessness and for violating the most important guarantees for individuals in Facing the accusations against them and the possibility of defending themselves.

In this regard, the Board of Grievances ruled that: “The claim of the plaintiff to cancel the decision of the Committee to Consider Violations of the Press and Publication System, which included a fine of five thousand riyals, and a decision to fine the plaintiff without inviting him to hear his statements and interrogate him by the committee formed for that, is a breach of the most important guarantees for individuals in the face of the accusations against them and their empowerment. From defending themselves and wasting an opportunity for the administrative authority to verify whether or not the violation against the plaintiff is proven. For that it was sufficient for the previous and others and an apology that the committee did not have the capabilities to help it conduct an investigation with all the violators due to the large number of them, because the system assigned that task to the committee before issuing the decision, and there is no indication that the commission would investigate, in addition to the fact that the police investigations did not include the accusation. The plaintiff for violating the publications and publication system and interrogating him about that will have the effect of rescinding the decision in terms of punishing the plaintiff”. (Meshael, 2018)

THE INTERROGATION

Interrogation is one of the procedures that precede the issuance of the disciplinary decision against the public employee. This procedure includes confronting the employee with the accusation against him and hearing his statements and justifications for his defence. It should be noted here that Article (145/a/1) of the Jordanian civil service system states However: “It is not permissible for any of the authorities stipulated in Article 142 of this system to impose any of the penalties stipulated in clauses (1-5) of paragraph (a) of Article (141) of this system on the violation committed by the employee, unless After questioning him,” and accordingly, the omission of this measure required by the legislator by the administration mars its decision with a defect in form and procedures. (Al-Abadi, 2015)

Sixth: Procedures for forming councils and committees and their meetings:

Sometimes the law may provide for the competence of some councils or committees to issue administrative decisions in certain topics, and in this case the legislation includes the rules of form and procedure that govern their formation and meetings and how to issue their decisions.

Choosing the members as stipulated by the legislation, otherwise the decision issued by the council, or the committee will be tainted with defects in form and procedures. (Tahiri, 1999)

Accordingly, if the administration does not follow them, the administration authority shall undertake the subsequent correction of the administrative decision tainted with defective form and procedures, in order to avoid its cancellation by the administrative judiciary. For the matter of covering the defect of form and procedure relating to the formation of committees is conceivable that the administration will correct it by a subsequent procedure in accordance with the will of the legislator. (Nada, 1990)

In this regard, the Board of Grievances ruled that: “The plaintiff’s request to cancel the defendant’s decision that included his deprivation in one of the academic subjects, and obligating him to write a written apology to the subject’s teacher with his pledge not to repeat what he had done and announcing this on the notice board and the decision (subject of the case) involved a number of defects The decision was based on Article (43) of the Regulations for Study and Examinations at the Teachers College, however, it included penalties that were not mentioned in that regulation, as the penalties were mentioned in the regulation exclusively, which makes the decision flawed by a flaw in the application of the system and the duration of the decision was specified in the regulation not to exceed Two weeks, however, the issuance of the decision (the subject of the case) exceeded eight full weeks in its issuance, and the regulation stipulated a certain number in the committee that recommends punishment, as it consists of six faculty members, while only three attended the formed committee, which makes the decision flawed. In terms of form, and if it could be corrected in accordance with the provisions of the law and the penalty decision, it did not include the reason, which is the material incident that was issued by the student, and made him worthy of the disciplinary decision, which makes the decision flawed with the defect of the reason, its effect: cancelling the decision of the defendant against the plaintiff. (Haykel, 2012)

THE RESULTS

1. The form or procedure is considered essential if its omission would prejudice the guarantees that protect the rights of individuals, or if the administration had followed it in connection with the decision, the decision would have been issued in another way.

This issue is considered discretionary, and the court will decide according to the circumstances of each case separately.

2. The defect in form and procedure that taints the administrative decision raises the question of the extent to which this defect can be corrected, and the extent to which the decision can be maintained despite its illegality, and that this issue arises in particular in the decision tainted by a fundamental defect in form and procedure.
3. The Jordanian legislator and the Saudi regulator did not address the issue of the subsequent correction of the administrative decision within the provisions of the Jordanian Administrative Judiciary Law, nor in the system of the Saudi Board of Grievances, nor in the system related to pleadings before this court
4. The administrative judiciary in Jordan and Saudi Arabia played a prominent role in finding appropriate solutions to avoid issuing a new decision regarding the defective decision with the defect of form and procedure by finding means to correct this defect.
5. There are two trends in administrative jurisprudence regarding the permissibility of subsequent correction of a defective decision with a defect in form and procedure, and its impermissibility. The subsequent correction of the defect in the form and procedure has emphasized the practical considerations that achieve flexibility in the management's work and provide the opportunity for it to review its decisions and reverse its error, and all this leads to the flexibility of procedures and makes it more suitable for the renewed and changing needs of the administration when issuing its decisions and directing its activities.
6. The administration may correct the form and procedure after issuing the administrative decision if the defect is merely the omission of some data that does not affect the content of the decision, and its omission does not affect one of the guarantees established for individuals.
7. The administration may not correct the form and procedure after it has issued the administrative decision if the defect is due to the omission of the formal administration or a procedure stipulated by law, because this is considered a retroactive correction of the decision and this is not permissible.
8. That there are cases in which the administration is disengaged from doing the subsequent correction, including: if it is impossible or impossible to complete the formality due to a force majeure that prevented it, as well as if the impossibility of

completing the form is due to the person concerned himself, and the same if the impossibility of completing the form is due to others.

RECOMMENDATIONS

1. The need for the Jordanian legislator and the Saudi regulator to draw up the rules for the subsequent correction of the defective administrative decision with the defect of form and procedure in a clear way by defining it, stating its nature and stating its provisions in a manner that avoids confusion and overlap between it and other systems.
2. If the development of life and the change of circumstances is the focus of the public interest calling for correcting the defective administrative decision with the defect of form and procedure, then this may harm the rights of individuals, especially in individual decisions. Correction procedure, especially if the defect in form and procedure is a serious error affecting the subject and substance of the decision and cannot be corrected.
3. I suggest that the Jordanian legislator and the Saudi regulator issue an appointment system for administrative procedures, which includes all procedures to be followed by administrative bodies when issuing administrative decisions, and the application of this system is to all government agencies without exception.
4. The need for the Administrative Court in Jordan and the Board of Grievances in Saudi Arabia to make more judicial judgments regarding the rulings issued by them related to the defect of form, especially those related to correcting this defect.

REFERENCES

- [1]. Najm, Ahmed Hafed. 1981. "Administrative law."
- [2]. Burhan, Asad Saad. 1984. "Termination of administrative decisions by the unilateral will of the administrative authority."

- [3]. Drwaish, Hassan Abdulhameed. 1981. "The end of the administrative decision without the judiciary."
- [4]. Tahiri, Hussien. 1999. "Appealing the annulment of the administrative decision."
- [5]. Qbylat, Hamdi. 2010. "Administrative Law."
- [6]. Akasha, H. Yassen. 1987. "Administrative decision in the judiciary of the State Council."
- [7]. Akasha, H. Yassen. 2011. "Encyclopedia of administrative decision in the judiciary of the State Council."
- [8]. Nada, Hana. 1990. "Administrative Judiciary in Jordan."
- [9]. Haykel, Kalil. 2012. "Saudi Administrative Law."
- [10]. Ajarmh, Nofan. 2010. "Principles of Administrative Law in the Hashemite Kingdom of Jordan."
- [11]. Al Alwai, Salem. 2013. "Administrative Judiciary - A Comparative Study."
- [12]. Jamal, Sami. 2004. "Mediator in a lawsuit to cancel administrative decisions."
- [13]. Al Tamawi, Suliman. 1979. "Cancellation Court - A Comparative Study."
- [14]. Alshahri, Shaker. 2012. "The Supreme Administrative Court of Saudi Arabia."
- [15]. Fawzi, Salah. 2010. "Administrative Law."
- [16]. Dwydar, Talaat. 2013. "The mediator in explaining the Saudi administrative law."
- [17]. Al Matai, Mohammed. 1991. "Legislative Correction"
- [18]. Garaf, Taima. 1973. "Administrative Law - A Comparative Study."
- [19]. Gwairi, Ahmed. 1989. "The post correction of administrative decision"

[20]. Alhuseny, Abdelaziz. 2013. "Judiciary of cancellation in the GCC states"

[21]. Al-Abadi, Talal. 2015. " Legislative power: Islamic Shura council"

[22]. Shgehi, Meshael. 2018. " Separation of powers in Islamic states"

