Litigation right and legal immunity for administrative decisions

The Student:
Tarek Shawkt Saeed
Department of Administrative and Financial Sciences, Faculty of Law, University of Damascus, Syria.
Certified Correspondence Researcher: tareeq.saeed2000@gmail.com

Supervising professor:
Dr. Youssef Shabat
youseffadi@yahoo.com
Professor at the Faculty of Law, Administrative and Financial Sciences Department, Damascus University.

Co-supervisor:
Dr. Khaled Al-Mohammed
d.khaled1978@gmail.com
Instructor in Faculty of Law, Administrative and Financial Sciences Department, Damascus University.

Summary

Objectives: This study aims to demonstrate how the Syrian legal system protects the right of litigation in the face of administrative decisions, which is one of the most important natural rights of a natural or legal person, as well as the administrative judiciary's position thereon.
Methodology: In studying this research, we will rely on the deductive "analytical" approach, as well as the comparative approach.
Results: The study several studies have now come to findings., including: the absence of any legal justification for the immunity had by certain administrative decisions litigation ", which constitutes a flagrant violation of the right to litigation, and the deviation of certain administrative acts from judicial control would negate the principle of legality and the Administration's argument in making random decisions, bearing in mind that serious judicial oversight is the effective means of binding the Administration on the limits of the law.
Conclusion: The study found a series of recommendations, the most important is: the need to prepare constitutional norms as a fundamental and necessary basis for judicial action, and to move forward in protecting the right to litigation, to enable individuals to review the judiciary, regardless of such administrative decisions are inviolable or not, in order to make the administrative judiciary the natural entity in the adjudication of all administrative rights and disputes.

Keywords: litigation, inviolable decisions, acts of sovereignty, administrative justice.

Introduction:

The right to litigation is one of the most important constitutional guarantees of justice and the protection of rights and freedoms. Consequently, necessarily the loss of such a right prevents individuals from having access to justice, especially the administrative court, which protects the principle of lawfulness and is a safe haven against the intransigence and abuse of power. In view of the fact that the Administration was not infallible, the immunity of certain administrative decisions from judicial oversight and the ability of individuals to litigate the Administration had to be ended, in order to overturn those decisions and demand compensation.

While the general principle is that the administration's actions are subject to judicial control, this principle is reflected in many exceptions, which are considered by some to be a genuine departure from the principle of lawfulness, a flagrant violation of the rule of law, such as acts of sovereignty and the theory of immunity of administrative decisions.

Both theories are a clear and direct exception to legality and a denial of the rule of law in which all have been demanding. While the theory of acts of sovereignty has some practical justification, the theory of fortifying administrative decisions -- which we are interested in in this research - finds no justification or reasons other than the release of the administration's freedom of action, which constitutes a major empty space in the public law world.

First - the problem of research:

The problem with the research is that the legal immunity of certain administrative decisions would undermine the most important rights inherent in the natural or legal person. This problem is also made more difficult by the lack of a clear attitude of the judiciary towards the immunization of administrative decisions, and by the executive's pursuit of their arbitrariness and control through decisions far from any serious oversight.

Secondly, the importance of research:

The importance of this research comes from its association with the rights and freedoms of individuals, considering that the right to litigate is safeguarded in all the laws that have guaranteed this right, and stressing that it should not be compromised, unless there is effective and genuine judicial control.

Third: research methodology:

We will study this research on the deductive "analytical" approach, as well as the comparative approach.

Research plan:

We examine this research in two requirements, the first is about the concept of the legal immunity of administrative decisions. The second is about the legal implications of immunizing administrative decisions and the judiciary's position as the following.

First requirement: concept of legal immunity of administrative decisions.

The legal immunity of administrative decisions is the ordinary legislator's peremptory characterization of certain administrative decisions to prevent the judiciary from examining its legitimacy, This prohibition may also sometimes extend to the Department itself, which is prevented from reviewing or revoking its decisions and thus confiscate individuals' right to litigate and appeal against such decisions, This constitutes a serious violation of the sanctity of the right to litigation guaranteed under international instruments(1) and the Constitution.(2)

On this basis, it is incumbent upon the legislator to provide the necessary means to consider the legality of the administration's work without exception and to abide by the constitutional texts. By enabling the judiciary to extend its oversight of all actions emanating from the Department and the failure to go to the decision of some regimes to fortify a number of resolutions even though they fall outside the scope of sovereignty theory, this theory is gradually declining at current time.

Section I: The idea of legislation immune to administrative decisions.

Some constitutions provide that administrative decisions may not be immune from appeal(3). However, some laws enacted under these constitutions soon go into breach of this constitutional provision, This may be because constitutions usually reflect a State's legal system. human rights ", the State proclaims that public freedoms are enshrined in its Constitution and affords the protection of private and public rights to suggest that they are a legal State that upholds those freedoms and rights, It then implies that restrictive laws, including the right to litigate, be enacted.

Some ordinary legislation may include in legal texts what would safeguard administrative decisions by rendering them uncontested or designating any reference, preventing the judiciary from scrutinizing and scrutinizing them. For example, article No.4 of the Act of France of 1943, which stipulates that "The granting of the concession cannot be the subject of any administrative or judicial challenge(4)." as well as what has been decided by some Syrian legislation, such as in some decisions that infringe the right to private property, where the legislator

in the Property Act explicitly stated that possession was by decree issued on the proposal of the competent minister... The property decree shall be concluded and shall not accept any of the methods of appeal or review[5] unacceptable ", which applies to decisions of the State's Medical Dismissal Commission, whose decisions are peremptory and are not subject to any recourse or review[6],and also applies to decisions of the Special Committee to adopt records of seizure and decisions of the Executive Committee of the Ministry of Agriculture[7] and Agrarian Reform and the decisions of the Health Investigation Board for officers and the decisions of the Health Investigation Commission for noncommissioned officers[8].

It is clear, therefore, that there are a number of Syrian legislation that confer immunity on a number of administrative decisions and render them peremptory and irreversible, regardless of the necessity, relevance and degree of violation of the law or the extent of damage to the persons concerned[9] , and what has been stated ,to name just a few.

It is noted here that some of the texts in question have prevented administrative decisions from being challenged judicially, and sometimes others have extended to administrative appeals, such as in the case of the procurement decisions referred to, and decisions relating to students' affairs[10], thereby increasing the negative effects of the idea of immunizing administrative decisions.

Although the 2012 Syrian Constitution explicitly prohibited the immunization of any act or administrative decision from judicial control[11] as a form of institutionalization and constitutional guarantee of the right to litigation and the conduct of remedies of appeal, review and defence before the courts, However, in some recent legislation, openly the legislator has violated this principle, in one of its most important recent legislation, as in the Syrian State Council's own law, which rendered the decree referring the judge of the State Council to the Disciplinary Board not subject to appeal, As implicitly understood in the context of the legal text, the appeal was limited to only three cases and only to other points[12] and the legislator should have made all administrative decisions justiciable, not to make such a clear and serious imbalance, bearing in mind that the State Council is the first and last concerned with protecting and ensuring judicial control of all segments of society, including the members of the State Council , not to mention, the cases mentioned in the Act which are subject to appeal are issued by the General Body of the Supreme Administrative Court in a strict manner in the sense that litigation in these specific decisions is of only one

degree[13] , which in fact constitutes an additional breach of the most established principles in this regard.

Section II. Distinction between legal immunity and the theory of acts of sovereignty.

Attempts by doctrine and the judiciary to establish a standard for distinguishing acts of sovereignty from other acts have not succeeded In this context, many criteria have been made, beginning with the criterion of political motivation. judiciary ", and by virtue of the criterion of the nature of self-employment, up to the judicial criterion in which opinions have been directed to the judiciary to determine what constitutes acts of sovereignty by establishing a list of such acts , and this list is not consistent in the light of the fact that it may change narrowly or broadly by changing time and place[14] . "

Building upon that, a certain number of acts, such as acts of sovereignty, concerning the Government's relationship with Parliament, international acts, as well as acts of foreign and internal war[15], were agreed upon. Thus, acts of sovereignty were those of the executive branch that were not subject to judicial control and were an exception to the principle of lawfulness.

However, by comparing the acts of sovereignty with the legal immunity of administrative decisions, especially in terms of their legal implications, it may be noted that each is a breach of the principle of the right to litigation, but there are many differences between them which reflect the gravity of the idea of immunizing administrative decisions as will be seen in the following points:

I. In terms of source: Some consider that the theory of acts of sovereignty has a judicial origin created by the French State Council, while the other theory is made by the legislator, who has made certain administrative decisions immune and not subject to appeal or review[16].

In Egypt, acts of sovereignty are enshrined in the Law of the State Council[16], Similarly, in the canceled law of the Syrian State Council, which provides that the Council of State does not have jurisdiction over an administrative judiciary to study claims relating to acts of sovereignty[18], It should be noted in this regard that the new State Council Bill prior to its promulgation contained the same phrase and explicitly stipulated in its article No. 12 also that claims relating to acts of sovereignty are inadmissible, but after the President of the Republic objected to some of the texts of the draft approved by the People's Assembly on 9 September 2019, the Supreme Constitutional Court stated that "the legislator in this objected bill has approved a provision contrary to the Constitution, and the Court has concluded that it is unconstitutional as defined in article 12/of the

challenged Act.[18] "It should be noted in this regard that the new draft law of the State Council before its promulgation contained the same phrase and explicitly stipulated in its article No. 12 also that claims relating to acts of sovereignty are inadmissible, but after the President of the Republic objected to some of the texts of the draft approved by the People's Assembly on 9 September 2019, the Supreme Constitutional Court stated that "the legislator in this objected bill has approved a provision contrary to the Constitution, and the Court has concluded that it is unconstitutional as defined in article 12/of the challenged Act[19]." Thus, in the judgement referred to, the Supreme Constitutional Court placed matters in a proper constitutional and legal position. State Council Bill ", that the phrase mentioned by the legislator in the new State Council bill conceals it in order to fortify an administrative decision despite the Constitution's prohibition of such, This was in fact a historic precedent following Mr. President's objection to the constitutionality of some of the provisions of the bill.

2- In terms of scope: if the judiciary is involved in determining what constitutes acts of sovereignty by establishing a list of such acts and limiting them to a specific group The scope or area of application of the doctrine of acts of sovereignty can be said to be identifiable and determinable, according to the foregoing. contrary to the scope of application of the notion of legal immunity, which has no clear criterion or measure of limitation or determination [20]. " This is indeed a fundamental difference between the two theories and would make the theory of the legal immunity of administrative decisions more serious than that of the acts of sovereignty itself, bearing in mind that the nature of the act or its belonging to a specific area would bring the act within the scope of the acts of sovereignty legal immunity of administrative decisions is subject to the will of the legislator, who alone has discretion and disposition in this context regardless of the nature of the act or its belonging to a specific area.

3-In terms of motivation: in this framework the main motive is to make a particular act such as acts of sovereignty or the purpose thereof, as well as the legal immunity of administrative decisions and to render it not subject to appeal or review.

As to the motive for the doctrine of acts of sovereignty, there are many perspectives in this area, Some would say that the motive in this case is either historical or political. which accompanied the emergence of the French state council when it was threatened with existence and exposed to the demise of the Government, which sought to alienate any attempt to eliminate its censorship of its actions, The Board removed a number of the Department's essential work from its control in order to prevent a clash with the Government on the one hand and gain its confidence on the other with a view to maintaining its presence and continuity[21] , the political motivation adopted by the French state council as a

means of distinguishing between acts of sovereignty and acts of other administration, The executive branch exercised two types of governmental and administrative functions, in its work and its decisions are followed on the basis of one of these qualifications, It exercises its function either as a Government or as an administration, and in the first case it is politicized to depart from judicial control and from political control(22). In Syria, the criterion of political motivation appears to have been introduced, with the Administrative Court stating that there is no reason to believe that such decisions to close private schools are outside the administrative sphere and are therefore subject to the supervision of the administrative judiciary as long as they do not constitute an act of sovereignty(23). s Supreme Administrative Court, which stated that the range of acts of sovereignty was constantly diminishing the concept of administrative jurisprudence and jurisprudence, and encompassed only political acts, such as foreign relations and other functions of the President of the Republic(24).

From this point of view, it can be said that the motive for acts of sovereignty is close to that of fortified administrative decisions. and may not be much different from it, considering that both theories agree to protect certain administrative acts from judicial oversight political power ", but to varying degrees, the closer the fortified decisions are to the position of political power the more they are described as sovereign acts, and the more they move away as legislative ones.

4-In terms of outcomes: the consequences of both theories vary. In France, the state council has argued for the possibility of claiming compensation for damages arising from acts of sovereignty on the basis of the theory of risk, and has recognized this in compensation for damages arising from the implementation of international treaties and conventions(25) and the French judiciary often examines aspects of the decision's external legitimacy, in accordance with its evolution in the control of acts of sovereignty(26).

As to the consequences of the introduction of the theory of legal immunity for administrative decisions, the immunization of such decisions made it a fortiori that they could not be revoked or compensated, since the judiciary did not have jurisdiction in the light of such decisions by law.

Thus, the justifications advanced for acts of sovereignty may have factual or political arguments. However, any justification for the theory of legal immunity is unacceptable and constitutionally unlawful, whatever the justification and reasons in this regard. and that to say otherwise would have negative effects on individuals' rights, Considering that the Department is free to assess and act without any judicial tracker immunity ", which is in fact contrary to the

constitutional provisions referred to above, and thus places the burden on the administrative judiciary to take an explicit and clear position on this immunity.

Second requirement: Legal implications of immunizing administrative and the judiciary's decisions .

Administrative decisions by immunizing them from judicial control acquire the status of conclusion, become irrevocable and thus have the validity of the ordered, and the appeal is dismissed or inadmissible, as the decision cannot be appealed without entering into the basis of the dispute. Nevertheless, the administrative judiciary has gone in the direction of imposing judicial control, but its positions on this matter have been different.

Section I: Legal implications of immunization of administrative decisions.

The fortification of administrative decisions by the legislator has negative consequences for the decision to be peremptory. If the decision is contested, the fate of the decision will end in the form of a reply or rejection. This will be dealt with as follows.

First - the decision acquires a peremptory character.

This means that the decision is not subject to the supervision of the judiciary. and is implemented directly regardless of the degree of disadvantage, and if the rules governing the enforcement of administrative decisions require the enforcement of decisions in a subjective and immediate manner when they are made in their correct and integrated form and by the legally competent authority to issue them no further action is required ". However, all of this is subject to the fact that the subsequent defect of the decision has not reached the degree of gravity that it loses as an administrative decision(27) .

Accordingly, an administrative decision is effective if its elements and conditions are met. But this description is lacking if the decision is seriously flawed, In other words, an administrative decision that is immune if it has a serious defect is effective and cannot be stopped or cancelled the basic constitutional and legal norms, not to mention that this decision may be rendered retroactively without taking into account the circumstances preceding its adoption. and respect for acquired rights and the stability of legal transactions and centres that constitute the effective translation of the principle of non-retroactivity of administrative decisions, as a well-established principle in administrative jurisprudence and doctrine(28).

Second-Restitution of appeal against the formally fortified decision.

The judicial immunization of the administrative decision results in the judiciary is unable to assess the legality of the said decision, that the judiciary will dismiss the appeal against the decision because of its lack of competence or the inability of the decision to appeal, which is done before examining the subject matter of the decision or appeal.

Consequently, there could be a flawed decision and it could be enforced without recourse to the courts, and if it was brought before the courts, the negative attitude would be clear and only through formal terms that the decision was already not subject to appeal.

From the above, it can be argued that the restitution of an appeal on a formal basis is an inevitable consequence of the immunity of administrative decisions from appeal or review, since the judiciary will go to the decision on formal restitution or inadmissibility because the decision is not subject to appeal, which in fact constitutes a flagrant breach of the principle of lawfulness by removing administrative acts from judicial control.

Section II: The judiciary's position on the legally immune administrative decision.

Oversight of the elimination of the Department's work is one of the most important types of oversight, given the independence and impartiality of the judiciary and provides legal safeguards to the parties. Its function is to resolve disputes and achieve justice through judgments rendered by the judgment that has the validity of the judgment.

The judiciary's view of immune administrative decisions was consistent with the majority of doctrine that they were a violation of the principle of legality and a flagrant breach of the rule of law, especially since they were more serious than acts of sovereignty that could be identified contrary to what was the case in immune administrative decisions that were not restricted by a specific scope, and the resulting significant negative effects on society.

Accordingly, the French State Council has decided on the above-mentioned legal text. (The granting of the obligation cannot be the subject of any administrative or judicial challenge) determining that the text in question does not preclude an appeal against the award of the concession on grounds of excess of authority to the State Council. An appeal is available and possible against any administrative decision without the need for a legislative provision thereto, with a view to ensuring respect for the principle of legality in accordance with general principles of law[29], This is supported by some French doctrine, which indicates that jurisdiction in administrative disputes is determined by jurisprudence or

jurisprudence, and by the legislator intervening with the aim of making the issues to be included in the administrative judge's jurisdiction, as the natural judge of administrative dispute(30).

Thus, the French State Council acknowledged that legislation immune to administrative decisions would not respect the principle of lawfulness, and that the topic of immunization of administrative decisions could not be invoked as a preliminary issue of unconstitutionality(31) , bearing in mind that administrative decisions were subject to appeal or administrative justice without the need for a legislative text(32).

In other words, an administrative decision, whether legislative or not immune, is subject to appeal by way of annulment, which is a tool for achieving and protecting the principle of legality and the rule of law. This rule is well established by the French administrative judiciary, which has made great strides in this regard. Eventually, it came to research and deepen the control of the Department's discretion public order measures and fundamental freedoms "(33).

In Syria, we have not seen a position close to that of the French State Council, since the rulings of the courts of the State Council are reluctant and remain far from it. and often adhering to the legislative texts immune to administrative decisions, perhaps many examples the Court of Administrative Justice, which decided to protect the legal immunity of indiscriminate property decisions, Consequently, the present case is inadmissible because the contested decision on possession is not subject to appeal. on the basis of the conclusion of the instrument of possession and its irrelevance of any recourse or review in accordance with the law of possession "(34), Likewise, in the case of dismissal and dismissal of judges issued on the basis of Legislative Decree No. 95/2005 (35),

which authorized the Council of Ministers to decide on the dismissal of judges by decree not subject to any method of review or appeal to any administrative or judicial reference, In the disputes concerning these decisions, the Court dismissed all the cases brought before it on the ground that it did not have jurisdiction over the constitutionality of laws and legislative decrees. s dismissal ", arguing that the decree on the dismissal of judges was not open to any review or appeal to any administrative or judicial reference(36).

Thus, the Administrative Court acquiesced in the legislator's will and accepted the immunity of certain administrative decisions from appeal. litigation ", as well as the administrative authority in some of its positions, in disregard of the rules guaranteeing the right to litigation and contrary to the most basic norms and principles enshrined in the Constitution and the law, although it acknowledged

the unconstitutionality of the Decree in question, in its traditional conduct it had relinquished the exercise of its judicial control. and could have distinguished between the constitutional provision in protecting the right to litigation and the provisions of the Exchange Ordinance, Any of them were first decided to apply based on the idea that constitutional law is the necessary and fundamental prelude to administrative law(37).

clearly Such judicial decisions reflect the Court's unwillingness to deal with dismissal decrees. and its attempt to evade or shirk its responsibilities, especially since its basis in justifying outcome was not accepted by the men of jurisprudence and the doctrine, which subordinates the administration and compel it to abide by the limits of logic and common sense, and not to let it do anything when she has the power to do whatever it wants(38), in addition, the dismissal decree by which many judges were dismissed is in fact only an administrative decision, let alone the court's duty to apply the law of the judiciary(39), The Court's duty to apply the Judiciary Act, which is the most important for the dismissal decree in the Ladder of Lawfulness - which sets out the due process and procedure for punishment abusive judges in detail to ensure fair accountability and to guarantee the judge's rights to defend himself or to use a fellow judge to defend him or her and, ultimately, what can be explicitly said that if judges are subjected to such indiscriminate decisions outside judicial control, They are supposed to guarantee people's rights and freedoms. The first is to ensure that the judiciary has the right to defend themselves.

Conclusion:

This study focused on the legal immunization of administrative decisions and their extreme impact on violating right to litigation, which has been enshrined as a constitutional rule or principle, and how acts of sovereignty - long beyond judicial control - have become defined by the judiciary, which has devoted its efforts to establishing a clear standard, , and this study has concluded a set of outcomes and recommendations that can be explained as the following.

First - Results:

1-The legal immunity of administrative decisions is an explicit infringement of the constitutionally safeguarded principle of the right of litigation and in violating this principle becomes more serious than the theory of acts of sovereignty itself.

2- While acts of sovereignty are justified, the immunization of certain decisions is justified or explained only by administrative control and arbitrariness.

3-Supervision of the judiciary is one of the most important forms of oversight of the administration's work. The judiciary is the only body that can be relied upon to protect the principle of legality, especially if it has the guarantees of effective independence.

4-The Syrian administrative judiciary's failure to keep pace with the judicial developments of States that follow the dual justice system, and to delay them to such an extent that the negative attitude is more apparent than any previous period.

5-The deviation of some of the Administration's actions from the oversight of the Syrian administrative judiciary renders the judiciary ineffective and inactive, and an excuse for the Administration to issue random and unconsidered decisions.

modify

Second -Recommendations:

1-We recommend that the legislature should respect constitutional norms, modifying all laws that are incompatible with the effective Syrian Constitution , and amend legal norms that contain immunity to administrative decisions.

2-We hope that the legislature will endeavour to enshrine legal norms that will enable individuals to have judicial review in order to protect their rights and freedoms and make such judicial review a new stage after providing the necessary legal and administrative environment.

3-We recommend that the Syrian State Council operate under the umbrella of the effective constitutional norms, neglecting any legal norm that is incompatible with the effective Constitution currently and prepare the constitutional norms as the main starting point and the necessary basis for judicial action.

4-We call on the Syrian State Council to go forward in protecting the right to litigation and to enable individuals to have judicial review regardless of whether or not such decisions are immune.

We wish the Syrian State Council to take a bold and explicit attitude to become a judge of all administrative disputes, regardless of the limitations specified in the laws, in accordance with its role as a judge of common law and as an enabling immunity in the protection of rights and freedoms.

(1) Article 8 of the Universal Declaration of Human Rights, adopted by the UN General Assembly in 1948, states that: "Everyone has the right to have access to the competent national courts for effective redress for acts that violate the fundamental rights conferred by the Constitution or by law".

(2) Article 166 of the Kuwaiti Constitution of 1962 states that: "The right to litigate shall be guaranteed and protected to all people. The law shall specify the procedures and conditions necessary for the exercise of this right".

(3) Article 97 of the Egyptian Constitution of 2014 states that: "Litigation is a right that is safeguarded and guaranteed to all. The State is committed to bringing litigants closer together, speedily adjudicating cases and prohibits the immunization of any act or administrative decision from judicial supervision".....

It is offset in the Syrian Constitution of 2012 by article 51, paragraph 3, of the Constitution, as will be seen in its place.

(4) Article 75 of Egyptian Decree No. 58-1270 of 1958 also states that decisions issued by the Supreme Council of the Judiciary in its disciplinary capacity are not subject to appeal by any means of challenge. Review that. Ali Shetawi, Resolutions and Laws, Encyclopedia of Administrative Justice, Part I, Culture Library for Publishing and Distribution, Amman, 2004, pp. 126-127.

(5) Article 7 of the Property Act promulgated by Legislative Decree No. 20/1983.

(6) Article 52, paragraph (c), of the State Employees' Statute issued by Act No. 50 of 2004 states that: "Each public entity or worker has the right to challenge the report of the Sub-Dismissal Commission before the General Medical Dismissal Commission within fifteen days from the date of notification of the Sub-Commission's report. The General Medical Dismissal Commission may issue its final decision within a period not exceeding a month from the date of challenge. and the decisions of the General Medical Dismissal Commission shall be deemed peremptory without any recourse or review" .

(7) Article 18 of Act No. 161/1958, as modified by Legislative Decree No. 145/1966, states that: " "The records of the organized seizure by the committees provided for in the preceding item are peremptory Land seized under it shall be registered in the name of the State in the real estate registries or title books as soon as the decision has been taken to approve it by a committee composed in each governorate under the chairmanship of the Governor; The composition of these committees is put by a decision of the Governing Council, called by decision of the Minister of Agrarian Reform; However, if these committees consider that no seizure record has been adopted for incompatibility with the distribution interest or the beneficiaries, the power to adopt it shall be transferred to the Executive Committee of the Ministry of Agrarian Reform and the decisions of the

this Committee in this regard shall be categorical and shall not be subject to any recourse. "

(8) Articles 40-41 of the Armed Forces Military Pensions Act, issued by Law No. 17/2003, refer the decisions of the Military Medical Council to the Health Investigation Board or the Health Investigation Commission for decision as appropriate... Upon ratification by the Commander-in-Chief, each person's decision shall be concluded and shall not be appealed to any judicial authority or other reference.

(9) Judicial oversight in States such as France and Germany has reached the point where there is a clear need for, and an effective contribution to, measures taken by the administration to achieve the desired objective, as well as the choice of the least restrictive means of the right or freedom in question after balancing the elements and research into the substance of the law. Review that in detail.

Bousta, R., Contrôle Constitutionnal De Proportionnalité. La Spécificité Française À L'Épreuve Des Évolutions Récentes, Presses Universitaires de France, 2010, p.924-930.

(10) - Article 153 of the Syrian University Organization Act No. 6 of 2006 refers to this immunization. Decisions and orders issued in respect of students by university councils and scientific committees have been promised.

(11) Article 51, paragraph 4, of the Syrian Constitution of 2012. This provision in the Jordanian legal system corresponds to article 9, paragraph 10, of the Jordanian Court of Justice Act, which gives the law the right to challenge against any final administrative decision, even if the decision is immune by law.

(12) Article 92 of the State Council Act, issued by Law No. 32/ 2019, refers to decisions of the Privy Council accepting an appeal to the General Body of the Supreme Administrative Court, namely, 1 - Approval of the appointment of the judges of the Council, identification of their seniority, advancement, promotion, transfer, secondment, acceptance of resignation and referral and all matters relating to their functional affairs as defined in this Act and in the laws and regulations in force. 3 – suspending of the service of the judges of the Council for health reasons in accordance with the provisions of this Law. Of these exclusive cases, nothing was received about the referral decree to the Disciplinary Board.

(13) Article 92 of Act No. 32 of 2019 states that the decisions of the Special Council in respect of article 90, paragraph 3 (a- i - z), shall be subject to appeal to the Commission within five days of the date on which the decision was communicated. The Court's Office shall notify the persons concerned of the appeal within five days; Its decisions shall be issued in the Deliberation Room on

behalf of the Arab people of Syria after making it possible for those concerned to submit their arguments. The decision shall be concluded.

(14) Dr. Khalid Khalil Al Dahir, Administrative Judiciary, Ombudsman's Office, Saudi Arabia, Abolition Court, Compensation Court, Comparative Study, First Edition, Law and Economics Library, Riyadh, 2009, pp. 69 .

Review Dr. Mohammed Wasel, Acts of Sovereignty and Jurisdiction, Damascus University Journal of Economic and Legal Sciences, vol. 22, No. 2, 2006 p. 385 et seq.

(15) - Dr. Hamdi Ali Omar, Modern Trends in judiciary Control - Comparative Study, No. Edition, Al-Ma 'raq Facility, Alexandria, 2016, p. 22 onwards. The Administrative Court further argues that the acts of sovereignty are intended to be those of the higher authorities which the administrative court itself considers to remain free from judicial control because of the inappropriateness or supreme interest of the State it deems to be and the Court adds that these actions cover only important political acts, such as the declaration of war, foreign relations and the exercise of constitutional functions by the Head of State as some of the Government's relations with legislative power. Judgement of the Administrative Court of Damascus No. 351/2019 in case No. 723/24/4/2019, unpublished judgement.

(16) Dr. Abdul Ghani Bassiouni, Administrative Judiciary, 3rd Edition, Al-Ma 'raq Facility, Alexandria, 2006, pp. 213-215.

(17) Article 11 of the Egyptian State Council Act No. 47 of 1972 states that: "The courts of the State Council shall not be competent to hear applications relating to acts of sovereignty."

(18) Review article 12 of the Syrian State Council Act No. 55/1959, which was recently repealed after the issue of the new Syrian State Council Act No. 32/in the twelfth month of 2019

(19) Supreme Constitutional Court judgement No. 3/2019 in case No. 3/2019.

(20) Dr. Ali Shaitawi, p. 113.

(21) Hauriou, M., droitadministatifetdroit public-Paris, 1911, p81.

(22) Muhammad Mufarah Hamoud al-Uteibi, Judgment of Compensation for Damages to Acts of Sovereignty in Administrative Justice - Comparative Study, Without Publishing House, Riyadh, 2011, p. 56.

(23) A Set of legal principles decided by the Syrian Administrative Court of Justice of 1974 with comments of the Supreme Administrative Court, Technical Office, Principle No. 100/, p. 305.

(24) A Set of legal principles established by the Syrian Supreme Administrative Court of 1974, Technical Office, Principle No. 116/p. 297.

(25) Dr. Hamdi Ali Omar,p.152.

(26) Review ,Dr . Mohammed Abdul Latif, Al-Wajiz in Administrative Justice Part I - Organization of Administrative Justice and Annulment Lawsuit, Faculty of Law, Mansoura University, 2020, p. 51.

(27) Nawaf Kanaan, Administrative Law - Book II, No Edition Number, Culture Publishing and Distribution House, Amman, 2005, p. 221.

(28) Dr. Suleiman al-Tamawi, General Theory of Administrative Decisions "Comparative Study", No. Edition, Arab House of Thought, Cairo, 1984, p. 319. Notwithstanding the enormous degree of disadvantage that may arise from the resolution, the immune decision finds its way into implementation without any deterrent or legal impediment that stops its entry into force, whether non-existent or retroactive, as it is not subject to any judicial or other control, and goes beyond all the justifications for which fundamental principles have been established in the world of administrative law.

(29) Dr. Ali Shaitawi, p. 126.

(30) Irani, C., La compétence judiciaire en matière administrative en droit libanais et en droit français, Droit. Université Grenoble Alpes, 2014. Français.p7.

(31) The preliminary issue of unconstitutionality is the compatibility of the law already in force with the Constitution on the basis of article 61-1 of the French Constitution, which states that: "If it is established during the proceedings before a judicial authority that a legislative provision constitutes an infringement of the rights and freedoms guaranteed by the Constitution, the Constitutional Council may be notified, upon referral by the State Council or the Court of Cassation, of this matter, which shall be decided within a specified time limit." Review.

(32) La question prioritaire de constitutionnalité, Mini-site du rapport d'activité 2021 du Conseil constitutionnel.

(33) FLORI, G., Les contrôles du juge administratif, L'article a été publié sur le lien, https://juridiquoi.com.

(34) Syrian Administrative Court judgement No. 513/2020 dated 14/10/2020 in case No. 990/2020, as well as judgement No. 650/2019 of 28/8/2019 and judgement No. 257/2019 in case No. 767/3/4/2019, unpublished judgements.

(35) On the 3/10/2005 of the Legislative Decree, the Council of Ministers was authorized to dismiss judges for reasons of appreciation; This Legislative Decree also explicitly stipulates that the Council of Ministers shall not be obliged to

explain or include the reasons for dismissal from service. and the decree concluded in its second paragraph that such dismissal was issued by decree not subject to any method of review or appeal to any administrative or judicial reference.

(36) Judgement No. 785/29/4/2008, No. 1614/26/8/2008, unpublished.

(37) Dr. Saed Nahili, Dr. Amar Turkawi, Administrative Law - General Principles, Faculty of Law, Damascus University, 2019, p. 68.

(38) Braibant, G., déclare en effet, que si « La censure du détournement de pouvoir a pour objet de soumettre l'administration à un minimum de moralité et de lui interdire d'utiliser ses pouvoirs pour des fins étrangères à l'intérêt général. De même la censure de l'erreur manifeste a pour objet d'imposer aux autorités administratives le respect d'un minimum de logique et de bon sens. Même lorsqu'elles ont le pouvoir de faire ce qu'elles veulent, elles ne doivent pas être autorisées à faire n'importe quoi », concl. Sur CE, 13 novembre 1970, Lambert, cité par Ghezzou, B., Le renouvellement du contrôle juridictionnel de l'administration au moyen du recours pour excès de pouvoir Droit. Université Bourgogne Franche-Comté, HAL, 2017. Français, p66.

(39) Article 105 of the Judiciary Act specifies the penalties that may be imposed on a judge in accordance with the following: 1. Blame 2. severance of salary 3. Delay of promotion 4. Dismissal. It should be noted that such penalties can only be imposed by the Supreme Council of the Judiciary after the judge has been referred to it by decree at the suggestion of the Minister of Justice or the President of the Supreme Council of the Judiciary, as referred to in article 107 of the Act. and the decree referring to the Supreme Council of the Judiciary is only after the Judicial Inspection Department has already investigated and heard the judge's statement.

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Done with God's help and grace