

## CANCELLATION OF THE ADMINISTRATIVE DECISION JUDICIALLY AND ADMINISTRATIVELY

**Ibrahim Ahmed Haji**

[20195751@std.neu.edu.tr](mailto:20195751@std.neu.edu.tr)

Near East University, Law department, TRNC, 10 Mersin, TR-99040 Lefkosa, Türkiye

**Prof. Dr. Sangar Dawood Mohammed Amri**

[sangar.amri@neu.edu.tr](mailto:sangar.amri@neu.edu.tr)

Near East University, Law department, TRNC, 10 Mersin, TR-99040 Lefkosa, Türkiye

### ABSTRACT

Administrative decisions, like other legal phenomena, are temporary because the speed of development of administrative life and its change leads to the need for the development of these decisions to keep pace with the changing situation, the administrative decision may end naturally, i.e. fall on its own without the intervention of any administrative or judicial action and may end with the intervention of the will of the administration, where the administration often resorts to putting an end to its inappropriate decisions to cancel or withdraw. The decision may also end without the intervention of the administration, as the stakeholder resorts to the judiciary through a lawsuit for annulment to obtain a court ruling to cancel the contested decision. Therefore, we talk about how the administrative decision by the administrative cancellation ends as well as the judiciary's cancellation of the contested decision before it.

**Keywords:** Administrative decision, administrative cancellation, administrative law, withdrawal of administrative decision, administrative judiciary.

### 1. Introduction:

Administrative decisions, like any legal action, must begin with them and end with them. Where the decision begins and becomes binding on the administration and individuals in accordance with special provisions and ends or expires in effect in accordance with these provisions and the end of administrative decisions means their demise and an end to their effects. The administration does not resort to putting an end to its inappropriate decisions to cancel or withdraw. The decision may also end without the intervention of the administration, as the stakeholder resorts to the judiciary through a lawsuit for annulment to obtain a court ruling to cancel the contested decision. Therefore, we talk about how the administrative decision by the administrative cancellation ends as well as the judiciary's cancellation of the contested decision before it.

### Importance of Research:

The theory of administrative decision occupies a distinct place at the level of legal sciences in general and administrative law in particular, the administrative decision by issuing it has the importance of influencing the legal positions of the addressees as well as their rights, so the end of administrative decisions is more dangerous and influential with what may condemn the

effects on individuals and the damage that may be caused to them and its importance is reflected in the statement of the foundations and controls to which the administration is subject in ending its decisions as well as the concept of administrative decision and the role of both the judiciary and the administration in canceling.

**Research problem:**

The problem of research revolves around the end of administrative decisions to cancel as the end of the administrative decision in unusual ways by the administration raises many difficulties and problems with regard to the rights of individuals, any parties to the administrative decision and determine the role of both space and management because the administrative decision often earns individuals rights they relied on and arranged their affairs on them and it is fair that the decision enjoys a kind of stability.

In order for individuals to maintain their positions and protect their rights, it is necessary to find controls and foundations that regulate the work of the administration and its intervention at the end of its decisions, as individuals must resort to the judiciary in the event of the arbitrariness of the administration and its departure from the seriousness of the system in its actions, as well as finding appropriate guarantees to protect rights from tampering by the administration.

**Research Methodology:**

We will address the subject of the end of administrative decisions to cancel and the course of the research two sections, the first of which is dedicated to the concept of administrative decision and its types and the section is divided into two requirements (the first definition of administrative decision and the second types of administrative decisions) The second section provisions cancel administrative decisions and is divided into two requirements, the first administrative cancellation of decisions and this requirement is divided into two branches, the first: the cancellation of organizational decisions and the second: the cancellation of individual decisions). As for the second requirement: the judicial cancellation of decisions, which is divided into two branches (the first: the duration of filing the appeal and the second: the effects of judicial annulment).

**2. Definition of administrative decision and its types****1.2 Definition of administrative decision**

The term dissident decision is of Latin origin and means the final decision and specific management of the decision-maker on what should and should not be done to reach a particular position or a specific and final outcome.

When the decision is described as administrative, it becomes an indication of the direction of the administration to its order and stability on it to make a change in the legal situation and when we review Arab and foreign administrative law books and some of the literature on the administrative decision, we find that there are many efforts have been made to define the administrative decision, including: -

Definition of Fidel Administrative Decision: It is a legal act issued by the unilateral will of the administration and that would modify the legal situation with the obligations it imposes and the rights it grants.

Fallin also defines it: an administrative decision is a legal act issued by an administrative body

or a special body with the privileges of public authority and its subject matter is administrative and issued to the laws or powers granted in the constitution<sup>(1)</sup>. It is also known by the judiciary, including:

Defined by the Egyptian judiciary: The administrative decision is a unilateral act issued by the binding administration of one of the administrative bodies in the state with its authority under the laws and regulations in the form required by the law intended to establish a certain legal situation for the public interest.

The Jordanian judiciary, represented by the Supreme Court of Justice, defines it as the definition of an administrative decision as the administration's disclosure of its binding will, with its authority under regulations and laws, with the intention of creating or modifying a legal status whenever possible or legally permissible.<sup>(2)</sup>

However, the administrative legislator did not develop a specific definition of the administrative decision, and for this the field was wide for jurisprudence and the administrative judiciary in trying to develop a comprehensive definition of the administrative decision, and jurisprudence and the administrative judiciary have settled on the definition of the administrative decision of any kind: (It is a final legal act issued by the unilateral and binding will of the national public authority with its authority under laws and regulations and in the form required by law intended to establish, amend or cancel a certain legal right or obligation whenever possible or Legally permissible in the public interest<sup>(3)</sup>). It is worth noting that administrative decisions are one of the methods of management in its legal work, that is, administrative decisions are (legal acts issued by the individual administration, meaning that legal actions, whether issued by a natural person such as the head of state or the prime minister ... etc. or were issued by a legal person such as public institutions and bodies are legal acts and are called administrative decisions).

Where the importance of administrative decisions is due to being considered one of the most important means of direct administrative function and the most important and dangerous manifestations of the privileges of authority enjoyed by the administration in the face of individuals, and the inequality of its management with the management of individuals The requirements of the public interest and public order On the other hand, administrative decisions are one of the main areas for exercising judicial control over the work of the administration, so it was and still is the focus of most disputes and cases before the administrative courts regarding the cancellation lawsuit, its medicine, characteristics, conditions for acceptance, reasons for the invalidity of administrative decisions and the provisions of Cancellation and its effects.<sup>(4)</sup>

---

<sup>(1)</sup>Dr Khaled Khalil Al-Zahir, Administrative Law (Comparative Study), 1st Edition, Part 2, Dar Al-Masirah for Publishing, Distribution and Printing, Amman, 1997, pp. 110-111.

<sup>(2)</sup> Dr Muhammad Jamal Mutlaq Thneibat, Al-Wajeez in Administrative Law, 1st Edition, International House for Publishing and Distribution and Dar Al-Thaqafa Amman, 2003, pp. 198-199.

<sup>(3)</sup> Dr Nawaf Kanaan, Administrative Law, 1st Edition, Dar Al-Thaqafa for Publishing and Distribution, Amman, 2010, p. 237.

<sup>(4)</sup>Dr Khaled Samara Al-Zoghbi, Administrative Decision between Theory and Practice (A Comparative Study), 2nd Edition, Dar Al-Thaqafa Library for Publishing and Distribution, Amman, 1999, pp. 12-13.

## 2.2 Types of administrative decisions

Administrative decisions are not all one type, but vary according to their subject or form or the angle from which the administrative decision is viewed, and this is what called for dividing them into several types and the result of their division is to put the decision in its right place.

We will deal with the administrative decision according to the angle from which the decision is viewed and divided into several categories:

First: Administrative decisions in terms of generality: -

1. Organizational decisions: They are those administrative decisions that regulate public legal centers for individuals, either by establishing these public centers, amending or canceling them, such as the organizational decision on an annual increase of employees, this decision includes all employees, which is objectively legislation similar to that issued by Parliament. However, it remains a kind of administrative decision issued by the executive authority in terms of form and therefore remains subject to appeal by annulment before the administrative court like any administrative decision.
2. Individual decisions: They are decisions issued in connection with a specific individual or specific cases and the implementation of their content as soon as they are applied, such as the decision issued to appoint an employee and the decision issued to promote an employee.

Second: Administrative decisions in terms of composition

Simple decisions: They are those that have their own independent entity and their own life and are not linked to another legal act. Most administrative decisions have this description, such as the decision to appoint an employee, the decision to impose a penalty, or the decision to grant leave.

Composite decisions: - It is the opposite of simple decisions that do not take an independent form, but are part of a complex administrative process so that it has a link to this process. Such as decisions taken to end the process of concluding two management contracts and another party. <sup>(5)</sup>

Third: Administrative decisions in terms of their enforcement or non-enforcement against individuals: Most administrative decisions are effective against individuals and binding on them and they must respect and implement them, otherwise they are forced to do so.

As for the decisions that are not in force against individuals, they are those that are not directed to them, do not bind them, and are not invoked against them, because their impact is limited to the administration or public utilities.

The importance of this division is that the appeal is permissible for decisions in force against individuals, while it is not permissible in decisions that are not effective against individuals because they are not binding on individuals and are not binding on them, as they do not entail any legal effects for them, as they are not final decisions. <sup>(6)</sup>

---

<sup>(5)</sup> Dr Muhammad Jamal Mutlaq Thneibat, Al-Wajeez in Administrative Law, previous source, pp. 219-218.

<sup>(6)</sup> Khalid Khalil Al-Zahir, Administrative Law (Comparative Study), previous source, p. 193.

#### Fourth: Establishing Decisions and Revealing Decisions:

1. Establishing decisions are decisions that arrange or produce new legal effects or positions. Such as events or changes in the existing legal centers to amend or cancel, whether these centers are public or private, such as decisions to appoint or dismiss public positions, promote, grant or cancel leave, as well as organizational decisions.
2. As for revealing decisions: their role is to determine a pre-existing legal situation and do not cause a change in legal status, such as a dismissal decision due to a conviction for a crime that entails its commission of dismissal by law.

#### Fifth: Administrative decisions in terms of space control: is divided into

1. Decisions subject to judicial control: It means those that can be subject to appeal before the administrative court, whether through cancellation, compensation or full judiciary, so that the judiciary can search into the legitimacy of the appealed decision or not. In the event of the issuance of draft resolutions, it shall decide to dismiss the case. Or by virtue of its cancellation and compensation and in the event of its illegality, and most administrative decisions are included in the authority to monitor the administrative space.
  1. Decisions that are not subject to judicial control:
  1. Decisions that are excluded from oversight due to the introduction of special legal legislation.<sup>(7)</sup>
  2. Acts of sovereignty: - They are those acts related to the supreme sovereignty of the state and the measures taken by the government with its supreme authority to preserve the sovereignty of the state and its entity at home and abroad. The Supreme Court of Justice excluded such acts from judicial oversight and other legislation, as well as acts issued by the executive branch, as well as acts issued by the government and acts related to the internal and external security of the State.

It is necessary to refer to the most important administrative decisions in practical application: -

1. Organizational decision and individual decision.

A regulatory decision is a decision that contains abstract general rules, i.e. general legal rules that apply to an unlimited number of individuals or cases, regardless of those individuals or cases. An individual decision is one issued in respect of a specific individual in particular or specific individuals or specific cases and exhausts its content or subject matter as soon as it is applied to the case or cases or to the individual or individuals, such as the decision to appoint or dismiss an employee.

2. Negative decision: The original decision is issued positively, whether by granting or banning... The exception is that the decision is issued negatively when the administration expresses a negative conciliator. It does not declare its will to move in one direction or another with regard to the subject matter on which a position must be taken, although at the same time it declares its explicit will to refrain from issuing a decision that it should

---

<sup>(7)</sup> Muhammad Jamal Mutlaq Thneibat, Al-Wajeez in Administrative Law, previous source, pp. 221-224.

- have issued, as established by jurisprudence and the administrative judiciary that negative decisions may be appealed, as well as positive. <sup>(8)</sup>
3. Null decision: It means a decision tainted by a violation that loses its administrative capacity and becomes null. The decision that is not ruled by the judgment of the non-judgments, i.e. just a material fact, does not need to be challenged before the legally competent authority to rule on the determination of its absence, but it is sufficient to deny it and not to adhere to it and not to consider it, because it does not have any impact on individuals or their legal positions.
  1. Continuous decision: means the decision that follows when the administration refrains from taking certain positions or issuing a specific decision if the legislator does not specify a certain period during which it must be taken. <sup>(9)</sup>

### 3. Provisions for canceling administrative decisions

To know the provisions of canceling decisions, we must first show that administrative decisions end with the intervention of the administration, which is called administrative cancellation, where the administration cancels the decision for the future and prevents it from producing any new effects without affecting the effects produced in the past.

It also ends without the intervention of the administration in the event that the stakeholder resorts to the annulment lawsuit and a court ruling is issued to cancel the contested decision, called (judicial cancellation). Therefore, it is necessary to identify what is the administrative cancellation and the provisions related to it, as well as the judicial cancellation and its effects, so we will address in the first requirement: the administrative cancellation of decisions, and in the second requirement: judicial cancellation of decisions.

#### 1.3 Administrative cancellation of decisions

The cancellation of the administrative decision by the administration is one of the unusual ways to end the administrative decision. Cancellation of the administrative decision: means suspending the entry into force of the decision or its effect with its effects for the future only, without including the cancellation of the previous and arranged in the past, that is, between its issuance and termination of the results and effects.

The right of management to annul administrative decisions varied from one decision to another. Because not all administrative decisions enjoy the same degree of respect: a legitimate decision has more sanctity and respect than a flawed decision, because the cancellation of the second is dictated by the principle of legality. An individual decision has more sanctity and respect than a regulatory decision when canceled. Because an individual decision creates acquired rights for individuals, and therefore to know the provisions of canceling administrative decisions, it is necessary to distinguish between canceling individual decisions and canceling organizational decisions. <sup>(10)</sup>

---

<sup>(8)</sup> Dr. Nawaf Kanaan, Administrative Law, op. cit., pp. 283, 286.

<sup>(9)</sup> Nawaf Kanaan, Administrative Law, op. cit., pp. 288-289.

<sup>(10)</sup> Nawaf Kanaan, Administrative Law, op. cit., pp. 302-303.

### 1.1.3 Repeal of regulatory decisions

The administration as a public rule always has the right to cancel its decisions, whether legitimate or illegitimate, and no one can claim acquired rights to its continued existence, because it establishes public legal centers. This is to keep pace with the requirements of developments in the administrative fields. And keep pace with the requirements of the public interest to conform to the principle of legitimacy. The administration may also cancel its decisions explicitly or implicitly, provided that it is done by a general procedure and not by an individual procedure, and that the cancellation decision is issued by the authority specified by law, and in the event of silence, it applies A rule that parallels or corresponds to the competencies, and the cancellation decision must be issued in accordance with the formalities and procedures specified by law.<sup>(11)</sup>

Therefore, the administration may cancel its legitimate regulatory decisions without any restriction of any period. This is because regulatory decisions set regulations that are not conceivably perpetual, but rather accept by their nature change and amendment according to the public interest. There is nothing wrong with this for the administration as long as it does not affect the rights that arose under the application of its rules, i.e. in the period between their issuance and cancellation.<sup>(12)</sup>

### 2.1.3 Cancellation of individual decisions

To know the extent of the administration's authority to cancel its individual decisions, a distinction must be made in this regard between defective or illegitimate decisions and sound or legitimate decisions.

As for illegal decisions, the administration may cancel them after their issuance within the estimated period for filing a cancellation lawsuit. If these illegal decisions have arranged acquired rights. Otherwise, it is immune from cancellation if this period is over, but the administration can cancel the illegal decision at any time as long as it does not create acquired rights even after the lapse of the period for filing the annulment lawsuit.

As for legitimate individual administrative decisions, the rule in this regard is that they may not be annulled if they entail rights, but if they do not entail rights, they may be annulled at any time.<sup>(13)</sup>

1. Temporary decisions: This type of decision only creates a temporary situation.
1. By expressly stipulating in the law authorizing the issuance of these decisions.
  2. The management shall expressly guarantee the cancellation of the administrative decision at any time.
  3. The timing should be due to the same decision, such as the license decision issued by the administration to individuals to use public funds. By their very nature, they allow the judge to revoke them at any time.

---

<sup>(11)</sup>Ali Mohamed Bdeir, Dr. Essam Abdel Wahab, Dr. Mahdi Yassin Al-Salami, Principles and Provisions of Administrative Law, 4th Edition, Al-Atak, Cairo, 2009, p. 465.

<sup>(12)</sup>Nawaf Kanaan, Administrative Law, previous source, p. 303.

<sup>(13)</sup>Ali Muhammad Bdeir, Dr. Essam Abdel Wahab Al-Barzanji, Dr. Mahdi Yassin Al-Salami, Principles and Provisions of Administrative Law, previous source, p. 465.

4. The decision in which the timing reference is the circumstances surrounding its issuance or is dependent on a condition. <sup>(14)</sup>
5. State decisions: They are the decisions that are arranged for individuals or recognized to them as soon as licenses or grants as a matter of tolerance, and then it is not permissible for those who issued the decision in his favor to claim its continuation because the nature of the decisions is temporary and then the administration may cancel them at any time.
6. Negative decisions or rejection decisions: The administration can cancel them at any time, including the decision to grant a license to open a public store... Etc.
1. Decisions issued to impose administrative sanctions: such as the decision issued to close a public place for a certain period, as the administration may cancel it immediately after its issuance or after a certain period and before the end of the period stipulated in the decision. <sup>(15)</sup>

### 2.3 Judicial annulment of decisions

Judicial cancellation is one of the normal ways in which the administrative decision ends and is represented by the stakeholder's resort to the judiciary through a cancellation lawsuit. As the annulment lawsuit in fact examines the legality of the contested administrative decision before the judiciary, and therefore it is a judicial litigation filed by each interested party demanding the cancellation of the illegal administrative decision and the authority of the judiciary is limited to examining the extent of its legality as if it were not and the descent of all its legal effects and serve as an argument against all. <sup>(16)</sup>

Article (7 / II / f) of the Second Amendment Law to the State Shura Council Law - to accept the cancellation lawsuit, the grievance must be obligatory before the competent administrative authority, which must decide on the grievance in accordance with the law within thirty days from the date of registering the grievance with it. He would not have forfeited his right of appeal. The lawsuit must be directed to the authority that issued the decision and has the right to amend it, withdraw it or issue it properly. <sup>(17)</sup>

#### 3.2.1 Duration of filing a judicial appeal

The legislator set the date for filing the lawsuit by years and days and made the validity of its submission to the court is to notify the person concerned of it or publish the contested decision, but the administrative judiciary added to these two means a third means, which is the knowledge of the person concerned of the administrative decision, even if this knowledge was not done through notification or publication, and this is what is stated in the text of Article (12) of the

---

<sup>(14)</sup> Dr. Khaled Samara Al-Zoubi, Administrative Decision between Theory and Practice, op. cit., 237.

<sup>(15)</sup> Ali Muhammad Bdeir, Dr. Essam Abdel Hahab Al-Razanji, Dr. Mahdi Yassin Al-Salami, Principles and Provisions of Administrative Law, previous source, p. 466.

<sup>(16)</sup> Fahd Abdul Karim Abu Al-Athm: Administrative Judiciary (Between Theory and Practice), 1st Edition, Dar Al-Thaqafa for Publishing and Distribution, Amman, 2011, p. 242.

<sup>(17)</sup> Wissam Sabbar Al-Ani, Administrative Judiciary, 1st Edition, Al-Sanhour Library, Baghdad, 2013, p. 256.



Supreme Court of Justice Law:

1. Subject to the provisions of paragraphs (b) and (c) of this Article, the case shall be filed with the court by summons submitted to it within (60) days from the date of notification of the administrative decision complained of to the applicant or from the date of its publication in the official gazette or in any other way if the legislation provides for the implementation of the decision from that date or requires its notification to the concerned parties in that way.
1. In the event that the competent authority refuses to take the decision or refrains from doing so in accordance with what is set forth in Article (1) of this Law, the appeal period shall begin. provided for in paragraph (a) of this Article after the lapse of (30) days from the date of the applicant's submission of a request to that authority to take such decision.<sup>(18)</sup> Therefore the deadline for appealing the administrative decision begins to take effect from a date linked to one of the three means, namely: - Notification, publication or certainty We will indicate each means separately:

### **First: Notification**

It is intended to transfer the administrative decision to the concerned individuals, whether individual or individuals, and it is considered the first means and nature in informing them of this decision, especially individual decisions, so that publication is not suitable for publication, however, publication is permissible to start the validity of the deadline for collective decisions as well.

Referring to the rulings of the Supreme Court of Justice, we find that they do not stipulate a specific method of notification, and therefore if the law does not provide for a specific method of notification, the administrative decision may be notified in any way, it may be through a record or through any administrative employee or by regular or registered mail, and it may be the original of the decision.

The administrative judiciary is reluctant between the notification to be written or oral, but it is fixed that the notification must be complete with the decision in full in order to lead to the knowledge of the person concerned personally if he is fully competent and to his representative if he is deficient in the original, but the burden of proof lies on the responsibility of the administration and be the acceptance of every means that lead to proving the occurrence of the notification, if the administration is unable to prove it, the door for appeal remains open.

In order for the notification to have its legal effect as the starting point of the validity of the appeal, it must be done correctly and properly, even if a fundamental material error occurs regarding the notification, the error loses the value of the notification, and therefore it is not acceptable for any argument for the administration in the validity of the notification to have its effects, even if it does not claim that it does not know the address of the person concerned

---

<sup>(18)</sup> Fahd Abdul Karim Abu Al-Othman, The Administrative Space between Theory and Practice, previous reference, p. 274.

in order to announce it. <sup>(19)</sup>

**Second: Publishing: It means publishing administrative decisions in the Official Gazette** in order to inform the public, but publishing it in newspapers, radios or bulletins is not considered the publication of the objectives of the law, as the specific formality of publishing the decision in the Official Gazette must be followed. In this we say the Supreme Court of Justice (The jurisprudence of the Supreme Court of Justice has established that the date of publication of the administrative decision in the Official Gazette is considered the beginning of the deportation if the publication includes the content of the decision. The matter is because the law assumes that the public is informed of the publication in the Official Gazette and it is not said that publication is limited to general administrative decisions without individual administrative decisions because this statement does not restrict the text of Article (10) (k) of the Law on the Formation of Regular Courts, which came absolute and absolute is being launched).

It should be noted that publication follows as a general principle for regulatory decisions, as they are published in the Official Gazette through regulations that must be published in the Official Gazette.

This does not mean that publication is linked to regulatory decisions, as publication is used for individual decisions if the legislator so provides.

The publication must be sufficient to reveal the content of the decision in its entirety so that the stakeholder is called to surround it with a complete picture, but if the publication is just a summary of the decision, it has no value in calculating the appeal deadline.

The burden of proof also falls on the administration as in the notification. <sup>(20)</sup>

**Third: Certain Knowledge: If the intention of notification and publication is to notify the person concerned of the** issuance of a decision against him, then if he is aware of it, the purpose envisaged by the legislator in communicating or publishing the decision has already been achieved and if the process of notification or publication did not cross, hence the administrative judiciary followed the theory of certainty and ruled that even the decisive evidence in accordance with the requirements of the circumstances of the dispute and its nature that the person concerned with the decision had learned of it with certainty and conclusive, not hypothetical. His knowledge was comprehensive The content of the decision, i.e. everyone, the contents of the decision so that it can determine its legal status from the decision whenever it is so, the deadline for appeal starts from the date of proving this knowledge without the need to publish the decision or announce it, as there is no matter for the evidence where what is meant is definitively proved. <sup>(21)</sup>

With these means that we have previously outlined, it is possible to determine the date for appealing the administrative decision.

### 2.2.3 Effects of judicial annulment

The result of the issuance of the judgment of cancellation is that the administrative

---

<sup>(19)</sup>Fahd Abdul Karim Abu Al-Atham, Administrative Judiciary, previous reference, pp. 275-276.

<sup>(20)</sup>Fahd Abdul Karim Ibn Al-Othman, Administrative Judiciary, previous reference, pp. 277-278.

<sup>(21)</sup> Ibid., p. 279.

decision is as if it was not and disappears from the date of its issuance because the judgment of cancellation is being implemented retroactively and the effect of the judgment of cancellation is not limited to the execution of the decision ruled to be canceled only, but removes all the effects of it in the past. The annulment ruling does not establish a legal center, but its effect is revealing because the defect under which the decision was annulled mars the decision itself from the date of its issuance. <sup>(22)</sup>

With the issuance of the cancellation ruling, the administration must implement it fully without delay, laxity or fraud, whether by removing its legal effects or removing its material effects.

**First: The administration's commitment to remove the legal effects of the canceled decision:**

Sometimes it may suffice to issue a judgment to cancel to remove these effects, in the sense that the cancellation of the defective decision alone leads to the correction of the situation from a legal point of view without the need for other work carried out by the administration, as in the case of canceling a system or regulation of control regulations for regulatory decisions, as once the cancellation judgment is issued, individuals are dissolved from being subject to them. Or as a decision to dissolve a body or charity for individual decisions.

However, in many cases, the law requires the intervention of the administration to remove the legal effects of the cancellation ruling by issuing an administrative decision to withdraw the canceled decision or the intervention of the administration to take what replaces the canceled decision.

As for the negative decision, the effect of the cancellation ruling is to oblige the administration to issue the decision that it refused to take. <sup>(23)</sup>

**Second: The administration's commitment to remove the material effects of the canceled decision**

As for the removal of the material effects of the canceled administrative decision, the rule is that the appeal against the administrative decision does not suspend its implementation, which results in the implementation of the administrative decision material effects that the administration must remove when a judgment is issued to cancel. Such as enabling the employee of the convict to start his work, and it may be impossible for the administration to remove these material effects, such as if the canceled decision ordered the demolition of a house and then the judgment was issued to cancel after the demolition of the house in this case, there is no way to repair the damage other than claiming compensation.

The original provisions of cancellation in the public office are that they restore the employee or appellant to his legal position that he occupied before the issuance of the cancellation judgment with the rearrangement of the employee's status and the considered canceled decision as if it were not.

**Third: The effects of the annulment judgment on other decisions**

The administration is committed not to legal acts based on the canceled decision and is linked

---

<sup>(22)</sup>Wissam Sabbar Al-Ani, Administrative Judiciary, previous reference, p. 272.

<sup>(23)</sup> Wissam Sabbar Al-Ani, Administrative Judiciary, op. cit., pp. 273-274.

to the decision by special links: -

1. The case that the canceled decision is a regulatory decision: The ruling to annul a regulatory decision (regulatory) entails the fall of individual decisions issued in implementation of this decision as long as they did not arrange acquired rights for individuals, and this is what the judiciary of the French Council of State has settled on.
2. The case that the canceled decision is an individual decision: The rule is the obligation of the administration to remove all decisions that are related to the canceled decision by a bond that would make these decisions tainted with invalidity, for example, returning the dismissed employee to his job that was occupied before the issuance of the dismissal decision forces the administration to withdraw the decision to appoint his successor. <sup>(24)</sup>

### **The end Results:**

1. We dealt with the end of administrative decisions to cancel and we explained the concept of administrative decision and its types and the end of the administrative decision with the intervention of the administration through cancellation and is called administrative cancellation and its end through the judiciary, where the affected resort to filing a lawsuit is the exhaustion of administrative injustice and this is what achieves justice towards individuals and prevents arbitrariness, which achieves the public interest and the credibility of the administration and its neutrality in the service of citizens.
2. We also found that the judicial cancellation (cancellation lawsuit) has only to research the legality of the administrative decision, i.e. the judge does not have to draw for the administration the measures to be taken to implement the cancellation ruling, as well as he does not have to replace it after canceling the decision, so he himself takes the correct decision, but the judge, if he finds the illegality of the Qur'an, should issue a judgment canceling it and considering it as if it were not.
3. The original sound individual decision may not be canceled when it creates acquired rights because the self-centers that arise from individual decisions can not be prejudiced or modified except with the consent of those who arose in their favor, but the administration may cancel them if they do not entail rights.
4. A sound regulatory decision may be revoked by the administration at any time if it does not entail rights for individuals.
5. After the issuance of the cancellation ruling by the administrative court, the administration must commit to removing all the consequential effects, i.e. the material and legal effects.

### **Recommendations:**

1. We recommend the need to give the legislator more powers to the administrative judge when his role becomes effective and does not depend on issuing the decision, but

---

<sup>(24)</sup> Wissam Sabbar Al-Ani, Administrative Judiciary, op. cit. 276.

- continues to implement it and allocate a judge at the level of administrative courts entrusted with the task of monitoring the implementation of administrative rulings.
2. We recommend the Iraqi legislator the need for regulatory intervention to cancel legitimate administrative decisions and surround them with guarantees to protect the rights of individuals and remedy the deficiency represented by the reasoning of administrative decisions, if the obligation of the administration to cause administrative decisions leads to the accuracy of work and reassurance of individuals on their rights and facilitate the work of the judiciary because the rule of causation allows individuals to stand on the legitimacy of the act.
  3. If the development of life and the change of circumstances is the matter of the public interest calling for the termination of administrative decisions, this may harm the rights of individuals, especially in the sound individual decisions, so we recommend wishing the administration, which addresses the cancellation of sound individual decisions to decide compensation for individuals as a result of depriving them of the benefits of the decision related to the extension of its impact for the future.

### Sources

1. Dr. Khaled Khalil Al-Zaher, Administrative Law, 1st Edition, Part 2, Dar Al-Maysara for Publishing and Distribution, Amman, 1997.
2. Dr. Khaled Samara Al-Zoghbi, Administrative Decision between Theory and Practice, 2nd Edition, Dar Al-Thaqafa, Publishing and Distribution Library, Amman, 1990.
3. Dr. Ali Mohamed Bdeir, Dr. Essam Abdel Wahab, Dr. Mahdi Yassin Al-Salam, Principles and Provisions of Administrative Law, 4th Edition, Al-Atak, Cairo, 2009.
4. Dr. Fahd Abdul Karim Abu Al-Othm, The Administrative Space between Theory and Practice, 1st Edition, Dar Al-Thaqafa and Publishing, Amman, 2011.
5. Dr. Nawaf Kanaan, Administrative Law, 1st Edition, Dar Al-Thaqafa for Publishing and Distribution, Amman, 2010.
6. Dr. Wissam Sabbar Al-Ani, Administrative Judiciary, 1st Edition, Al-Sanhouri Library, Baghdad, 2013.
7. Dr. Muhammad Jamal Mutlaq Thneibat, Al-Wajeez in Administrative Law, 1st Edition, International House for Publishing and Distribution and Dar Al-Thaqafa, Amman, 2003.