

Alternative Methods for Resolving Administrative Decisions Outside the Judicial Framework

Asst. Lect. Raed Ibrahim Anoun

Ministry of Education, Najaf Education Directorate, Iraq

Received: 24 March 2025; **Accepted:** 20 April 2025; **Published:** 30 May 2025

Abstract: This research addresses the topic of "Alternative Methods for the Finalization of Administrative Decisions Outside the Judicial Framework." The research problem stems from the lack of clarity regarding the legal mechanisms governing the finalization of administrative decisions and their impact on the stability of administrative transactions and individual rights. The importance of this research lies in its examination of an essential aspect of administrative law, namely "the finalization of administrative decisions," from two perspectives: administrative and non-administrative. It aims to clarify the legal mechanisms governing the finalization of administrative decisions in a manner that reinforces the principle of legitimacy and protects individual rights from administrative abuse. It also aims to identify their consequences and provide recommendations for improving legal and administrative mechanisms for the fair and effective finalization of administrative decisions. The researcher also relied on a descriptive and analytical approach to review alternative administrative methods to finalise administrative decisions outside the judiciary.

Keywords: - Administrative Decisions, Finalization of Administrative Decisions, Administration, Cancellation, Withdrawal of Administrative Decisions.

Introduction: An administrative decision allows the administration to unilaterally decide on a matter without the need to obtain the approval of the concerned individuals. It enjoys a degree of immunity, presuming its validity and legitimacy. Anyone who disputes this must resort to the judiciary to request its annulment. The burden of proving the defect in the decision rests with them. Without this presumption, administrative life would be disrupted. The legal system of the administrative decision empowers the administration to achieve its goals and objectives by creating an effect, amending, establishing, or abolishing a legal status. While administrative decisions do not remain in perpetuity, they are subject to expiration. This enforceability has a limit at which the administrative decision ends. This is the final stage of the administrative decision, known as "the end of the administrative decision." Therefore, the existence of an administrative decision does not end except by the express or implied will of a competent public authority (legislator, judiciary, public administration) by ending its existence. Suppose such will appears in law, judicial ruling, or decision. In that case, An administrative

decision has expired, and consequently, its effects end concerning the past and future in some cases and the future in others. Its effects either end with the expiration of the decision itself or with a natural end with its implementation, with the expiry of the deadline for producing the decision and its effects, the fulfilment of a condition specified by law, or the impact of the decision itself ceases with its fulfilment. In other words, an administrative decision may end naturally or with the intervention of the public authority. From the above, we will discuss in the first section (the end of an administrative decision other than through administrative action) and the second section (the end of administrative decisions through administrative action) the details explained above. First: Research Problem:

Administrative decisions are the administration's tool for implementing its policies and achieving its goals. However, they are not permanent and may end in different ways. The end of administrative decisions is divided into two categories: the termination of administrative decisions by the administration itself (such as self-termination or amendment) and the

second is their termination by parties other than the administration (such as judicial cancellation or administrative appeal). The problem arises from the lack of clarity regarding the legal mechanisms governing the end of administrative decisions in these two categories, on the one hand, and the extent to which the end of these decisions impacts the stability of administrative transactions and individual rights on the other hand. Furthermore, there is ambiguity surrounding the balance between the administration's authority to terminate its decisions and the judiciary's or other parties' authority to appeal or annul them. The research questions are as follows:

Research Questions:

1. What are the mechanisms by which the administration terminates administrative decisions?
2. What are the mechanisms by which administrative decisions are terminated by parties other than the administration?
3. What are the implications of the end of administrative decisions from both sides on individual rights and public interests?

Second: Significance of the Research:

The importance of this research lies in its addressing a vital aspect of administrative law, namely "the termination of administrative decisions," from two perspectives: (the administrative element) and (the non-administrative element). This research contributes to clarifying the legal mechanisms governing the termination of administrative decisions in a manner that reinforces the principle of legitimacy and protects the rights of individuals from any administrative arbitrariness.

Third: Research Objectives:

The research aims to analyze the mechanisms by which administrative decisions are terminated by the administration, study the mechanisms by which non-administrative parties terminate administrative decisions, identify the effects of the termination of administrative choices from both sides on individual rights and public interests, and provide recommendations for improving the legal and administrative mechanisms for the fair and effective termination of administrative decisions.

Fourth: Research Methodology:

Both descriptive and analytical approaches were used to review alternative administrative methods for terminating administrative decisions other than through the judiciary, whether those decisions are terminated by the administration or by non-administrative parties.

Section One

Termination of Administrative Decisions Without Administrative Action

The term "termination" of administrative decisions refers to the termination of any legal effect. Administrative decisions may expire naturally when their contents are implemented, or when the specified period for their validity expires, or the purpose for which they were issued is exhausted, or when their implementation becomes impossible due to the lack of a valid reason or the death of the beneficiary, or other reasons beyond the control of any authority. Administrative decisions may also expire unnaturally, such as when a public authority intervenes to terminate them, or when the legislator or judiciary intervenes to annul them, or when the administration withdraws or annuls the decision. The administrative decision ends in a way that the administration has no role in, the natural end of the administrative decision, as we will divide the topic into eight branches. Dr. Nawaf Kanaan defined administrative cancellation as (the suspension of the decision's enforcement or validity with its effects for the future only, without including the results and effects that it had previously arranged in the past, i.e., the results and effects between its issuance and termination). Dr. Sharif Youssef Khater defined administrative cancellation as - the termination of the effects of the administrative decision for the future only, without extending beyond its effects in the past, meaning that the decision remains productive of its effects in the period prior to the issuance of the administrative decision in the future, not the past. Before addressing the cases that lead to the natural end of the administrative decision, in which the administration's will has no role, the administrative decision ends without the administration's action in the following cases:

First Requirement

Reasons for the End of the Administrative Decision

The administrative decision ends for several reasons, including (its implementation, withdrawal of the decision Administrative, cancellation, exhaustion of its purpose, physical destruction of the subject of the administrative decision) as follows:

First / The administrative decision ends with its implementation (the administrative decision ceases to produce new effects upon its implementation).

The administrative decision ends as soon as it is implemented or its purpose is exhausted. Once the decision is made and its issuance is valid and sound, it becomes enforceable and produces its legal effects after its announcement. The administrative decision is

implemented through several means, some of which can be implemented on their own due to their executive power. This is due to the authority that issued it and the privileges it granted to the decision that gave it this power. Some decisions require coercive force to be implemented through its own means. An example of this is a decision to deport a foreigner, where the decision ends as soon as the foreigner leaves the country. Similarly, a decision to demolish a dilapidated house ends as soon as the house is demolished. The nature of some decisions may require them to continue for a long period of time, such as a decision to grant a license to a shop, where the decision does not end. By establishing the shop, but rather it continues as long as the beneficiary continues to practice his activity in the shop, unless the administration intervenes and withdraws the license and passport. If the administrative decision is fully implemented and produces all its legal effects, it ceases to produce new effects, for example, a decision to impose disciplinary punishment, a decision to promote an employee. We would like to point out that the decision that produces its effects and is not withdrawn remains in the legal world and its effects remain part of the legal structure, as it is noted that some jurisprudential opinions are inaccurate that say that the administrative decision ends with its implementation, as implementation does not end the decision itself, but rather makes it invalid to produce legal effects after it has been implemented and produced effects in the legal world. However, the effects resulting from the decision remain in place, as does its basis, i.e. the administrative decision during the period in which it was effective. Second: The cessation of the legal or factual status upon which the continued validity of the decision depends (the subject of the administrative decision).

The administration issues an administrative decision under specific circumstances that prompted the administrative official to issue it. Circumstances change. The authority of the administration is almost absolute in arranging its legal actions according to the circumstances of the decision's issuance. This absoluteness is found more in regulatory regulations than in individual decisions, as the latter are based on creating rights and individual legal positions. Regulatory decisions, on the other hand, are not viewed from the perspective of the circumstances in which they arose, but rather in light of emerging rules and circumstances. This is because they are permanent actions that do not generate rights, but rather regulate future situations. Legal or factual cessation refers to the subject or location of the administrative decision. This occurs when the administration grants a foreigner a

residence permit because he works for a government agency or department. If his service in this agency ends, his residence permit ends, meaning that the general nature of the decision is negated. The physical cessation of the subject or location of the administrative decision refers to the permit granted to use part of the coastline for a private purpose, such as residence. Kiosks or a casino, and then this part is submerged by seawater, becoming part of the sea.

Third: Impossibility of Implementing the Decision:

These decisions are only enforceable against those against whom they were issued or a specific person. When the administration issues a decision to practice a specific profession (appointment), and then the beneficiary of the decision or license dies before the appointment is implemented, the default is that the fate of the decision is linked to the fate of those in whose favor it was issued, except in some exceptional cases that allow for some of the effects of the decision to be arranged for the beneficiary's heirs.

The Second Requirement

Conditions for the Termination of an Administrative Decision

An administrative decision terminates upon the fulfillment of its termination conditions, which are the following: (the rescinding condition, the suspensive term, a change in circumstances, or the issuance of a court ruling). We will discuss these as follows:

First: The administrative decision is subject to a rescinding condition or is linked to a suspensive term.

A condition is generally a future matter that has not yet materialized, and its occurrence entails the obligation to comply. A decision may be issued subject to a rescinding condition. This is a full decision, and its effects are effective from the date of its issuance. However, the fulfillment of the rescinding condition leads to the decision being revoked retroactively, i.e., from the date of its issuance, not from the date the condition was fulfilled. Similarly, a decision to appoint an employee is subject to a rescinding condition, which is the employee's refusal to accept the position or not to begin work. If the employee rejects the position and refuses to accept the job, this leads to the decision being terminated from the date of its issuance. The condition upon which the decision terminates is a potential event, the fulfillment or non-fulfillment of which, as the case may be, leads to the termination of the decision. Administrative for the future, a distinction must be made between a suspensive condition and a resolutive condition. The latter removes the decision retroactively if it is fulfilled, while the suspensive condition does not remove the decision from the

moment of its issuance and its effect is limited to putting an end to the effects of the decision for the future. This includes administrative decisions that determine the employee's relationship with the state, which ipso facto ends when the employee reaches retirement age. The deadline is a certain moment in the future, the occurrence of which leads to the decision ceasing to produce its legal effects for the future. The decision may specify the period in which it is valid and specify its effects. If the period ends, the decision ceases to produce any other effects. However, the extension of the period may be outside the decision, as may happen when a law or regulatory decision extends the period. An example of this is a decision that specifies its validity for a specific period, such as a decision to appoint a temporary position, and a decision to regulate a specific activity that ends with a specific period. Determining the period at which the decision ceases to produce new effects may be among the matters binding on the administration by virtue of a legal text that specifies a period for its validity, or obligates the administration to issue decisions specifying a period for its validity. When the specified period comes, the decision ends for the future, so it does not produce new effects after that period. This expiration does not need to be decided by another act, as it is stipulated in the decision since its issuance, and it becomes effective upon the arrival of the specified period. However, if it is desired to extend the implementation of the decision, it requires a new decision, and in this case, the new decision that addressed the subject of the first decision is the one that becomes The decision is not valid, and it is not the first decision that expires upon the expiration of its specified term. In any case, if a decision is coupled with a rescinding or suspensive condition, that condition must be legitimate and possible. If the condition is illegitimate, then the condition is invalidated, and the decision remains valid. However, if the decision as a whole is inconsistent with general legal principles—that is, the administration would not have issued the decision without including the violating condition—then the decision is absolutely null and void.

Second: Expiration of the Specified Period for the Effectiveness of the Administrative Decision

The legislator may specify a specific period for the effective period of an administrative decision, the effect of which ceases upon its expiration. This is the case of a residence permit for a foreigner for a specific period, where the decision expires upon the expiration of the permit period, or an administrative decision granting an employee leave for a month, where the month expires.

Third: The physical destruction of the property upon

which the decision is based, or a change in the circumstances that prompted the issuance of the decision. The physical destruction of the thing upon which the decision is based occurs when a decision is issued licensing a person to use a portion of public funds. The decision ends with the destruction of this portion of public funds, or the loss of its public status. A decision may also end naturally as a result of a change in the circumstances that prompted its issuance. An example of this is administrative decisions issued pursuant to a specific law. These decisions naturally end with the lapse or repeal of the law, unless otherwise provided. Fourth: An administrative decision may expire upon the issuance of a ruling by another authority, such as a ruling annulling the administrative decision by the Administrative Court. Consequently, the administrative decision is deemed null and void vis-à-vis all parties. The administration must then, out of respect for the annulment ruling, withdraw its decision and terminate all its consequences.

Chapter Two

The End of Administrative Decisions by Action by the Administration

An administrative decision ends with an action by the administration in two ways: (cancellation of the administrative decision) and (withdrawal of the administrative decision).

First Requirement

Cancellation of the Administrative Decision

The rapid development and change of administrative life leads to the necessity of administrative decisions evolving and changing at all times, to keep pace with this development and respond to changing conditions. In most cases, the administration may resort to putting an end to the implementation of its decisions that have become inconsistent with the current development, in accordance with what is called (cancellation). Cancellation means removing the effects of the administrative decision for the future, not the past, starting from the date of cancellation. This can be done by the administrative authority that issued the canceled decision or by the higher presidential authority, unless the law grants another authority this right. This cancellation may be total, encompassing all parts of the decision. The administrative decision may be partial or administrative, and may be based on a portion of the administrative decision. It is essential that the cancellation decision be issued in the same form and with the same procedures as the original decision. That is, if the original decision was issued in writing, the cancellation decision must also be issued in writing. The cancellation of an administrative decision may be explicit and direct regarding the previous

decision in all its parts (total cancellation). The cancellation may also be represented, with regard to the contents of the previous decision, by the result of comparing the previous decision with the new decision. This is the partial decision or the amendment to the previous decision. The administration's right to cancel its administrative decisions varies according to their scope, whether they are individual or regulatory decisions. The administration has broad freedom to cancel regulatory decisions. However, if the decision is individual, the matter also varies from one decision to another, as the decision that stipulates acquired rights for individuals differs from the decision that does not stipulate such rights. Section One

Revocation of Administrative Regulatory Decisions

As a general rule, the administration can revoke its regulatory decision at any time. This is because the latter creates general substantive legal positions, and these positions can be amended or revoked by the administration whenever the public interest so requires. Revocation here means that the effects of which apply to the future. The rule in France and Egypt is that the administration may at any time amend, revoke, or replace its regulatory decisions, in accordance with the public interest. This rule is based on the provisions governing general regulatory positions. These regulatory positions are subject to amendment and change at any time according to the requirements of the public interest. The Egyptian State Council believes that a distinction must be made between regulatory legal positions and subjective legal positions. The former may be changed at any time, subject to the law or regulatory decision, while the latter may only be affected by a law specifically stipulating this in a specific text. This means that the legal positions created by laws and regulatory decisions are temporary and subject to change at any time according to the requirements of the public interest. For the requirements of the public interest, these regulations, despite their flexibility, are binding on all authorities, and even on the authority that issued them, and they have the right to amend or change them at any time, as long as they do not issue amendments or changes to those regulatory decisions.

Section Two

Voiding Individual Administrative Decisions

A general rule in Islamic jurisprudence is that a valid individual administrative decision may not be nullified, as this would impinge on the rights acquired by individuals through these decisions. For example, when the administration grants a license to open a public store after approving its location, it is not permissible for it to revoke this decision with a subsequent decision

that nullifies it. This is because the initial decision may create legal positions and personal rights that may not be infringed upon. In nullifying its individual decisions, the administration must distinguish between decisions that establish acquired rights and legal positions, and decisions that do not establish such rights. Regarding the first type, the rule is that the administration cannot nullify them once they are valid and create rights for an individual or group of individuals. As for the second type, i.e., decisions that do not create rights for an individual or group of individuals, the administration can nullify them, which we will discuss in turn:

First / Voiding Individual Decisions That Create Rights for Individuals

Here, a distinction must be made between the permissibility of nullifying legitimate individual decisions. The distinction between those establishing acquired rights and those establishing unlawful individual decisions and those establishing acquired rights is as follows:

1 - Regarding the annulment of a valid and legitimate individual administrative decision establishing acquired rights:

The principle is that if individual decisions are issued validly, meet the conditions required by law, and result in the right of a person or legal position, the administration may not interfere with them except within the limits permitted by law. Jurisprudence stipulates that respect for acquired rights arising from individual administrative decisions is similar to the principle of legality, which is considered one of the foundations of the legal state. However, this principle does not apply in absolute terms. The administration often has the power to annul a decision that results in acquired rights by issuing a counter-individual decision. By this, we mean an administrative decision that relies on a valid, not non-existent, administrative decision, modifying some or all of its provisions so that its effect is limited to the future. Thus, the counter-individual decision replaces the previous decision. This includes a decision issued to appoint a person to a public position. This decision, even if it grants the person the right to hold a public position, grants the person the right to hold a public position. The administration may terminate an employee if they commit an error that justifies this penalty. This applies to a valid individual decision. From another perspective, it applies to valid or legitimate individual administrative decisions. The rule is that they may not be revoked if they create rights. However, if they do not create rights, they may be revoked at any time. 2 - Regarding the revocation of a defective (unsound) individual administrative decision that creates acquired rights: The

administration may revoke or amend it, and its revocation constitutes a penalty for its illegality. However, the administration may not carry out this revocation or amendment at any time, as established court rulings stipulate that an unlawful administrative decision is immune to revocation oversight after the statutory period for appealing the revocation decision has elapsed (60 days). It is unreasonable for the administration to be permitted to do what the judiciary is not permitted to do, which would deprive the administration of the authority to revoke the decision after the appeal period has elapsed, starting from the date of its issuance. Second: Administrative Decisions That Do Not Create Rights for Individuals

These are administrative decisions that the administration can revoke or amend. Jurisprudence has established several types, including:

1- Temporary Decisions: These are decisions that do not create rights in the legal sense because they relate to temporary situations, even if the law does not stipulate their validity for a specific period. These are also decisions that the administration can always revoke, such as assignment or secondment decisions. These decisions do not confer rights to the assigned position, and therefore may be revoked at any time. These include decisions granting a temporary license.

2- Negative Decisions: These are administrative decisions that do not express the administration's intention to establish, amend, or terminate a legal status. Rather, the administration takes a negative stance when it should have taken action in accordance with the law and regulations. The administration's failure to explicitly express its intention constitutes a negative decision of refusal. These decisions do not create rights or benefits for individuals and may be revoked at any time, such as an administrative decision to refuse to grant a license to an individual to practice a particular profession. 3- State decisions that do not confer rights on individuals: These are decisions that merely grant individuals a license from the administration, without any other legal consequences. This decision cannot be considered an acquired right, and therefore, the person in whose favor the decision was issued may not demand its continuation, as the nature of these decisions is temporary. Therefore, the administration may cancel it at any time it wishes, such as granting an employee sick leave in cases other than those specified or indicated by the law, or the competent administrative authority canceling its decision to grant a foreigner a residence permit.

4- Non-executive decisions: These are decisions issued with the intention of preparing for the issuance of a specific decision, such as the management's decision to

refer an employee to an investigative board, and decisions that require approval from the presidential authority. These decisions can be revoked by the management for future use at any time and without being bound by a specific deadline. The Second Requirement

Withdrawal of Administrative Decisions

French jurisprudence has defined the withdrawal of an administrative decision in several ways. Jurist Bonnard defined it as (the act that terminates the administrative decision by the issuing authority, as if it had never existed). Jurist Forget defined it as (a special method for terminating an administrative decision retroactively, by the will of the source or the presidential authority, under the conditions specified by administrative law). In Arab jurisprudence, jurist Suleiman al-Tamawi defined the withdrawal of an administrative decision as (retroactive cancellation). Professor Muhammad al-Saghir Baali asserts that it is the nullification of the decision and the uprooting of its roots, such that it disappears and erases all effects resulting from the implementation of the withdrawn administrative decision in the past, and also eliminates its effects in the future. Therefore, unlike cancellation, it has a retroactive effect, as an exception to the principle of retroactivity. However, the authority of the administration in administrative withdrawal varies depending on whether the administrative decision is valid, defective, or nonexistent. The intent of withdrawing decisions is to... Administrative decisions are nullified retroactively from the date of their issuance, as if the decision had never been issued and had no legal effects. Withdrawal in this sense is like judicial cancellation in terms of its effect, as it results in the termination of all legal effects arising from the administrative decision from the date of its issuance. If the administrative judiciary has the right to cancel defective administrative decisions from the date of their issuance during the appeal period for cancellation, then logic dictates that the administration has the right to withdraw its defective decisions during this period, to avoid lengthy litigation procedures. Also, the administration's withdrawal of its defective decision is better for it than its judicial cancellation. From the above, we will clarify what is meant by withdrawing an administrative decision by retroactively ending it, and what is meant by canceling an administrative decision by cancellation before addressing the distinction between withdrawing legitimate and illegitimate administrative decisions. The first method - the retroactive termination of an administrative decision:

This means withdrawing the administrative decision at the will of the competent authority (legislative,

administrative, or judicial), thereby erasing it from the legal system and removing it from the legal framework. After this, the decision ceases to produce any legal effects. However, the effects it produced prior to its termination remain in the legal system unless a decision is issued to terminate all of its effects from the moment of its issuance, i.e., to terminate the decision or its effects retroactively.

The Second Method – Cancelling an Administrative Decision Through the Judiciary:

Many administrative decisions are subject to judicial oversight, whether the judiciary is specialized or ordinary, specializing in all disputes, whether related to public administration activities or not. If the administrative decision is appealed before the judiciary and the court decides that it is illegitimate, i.e., there is a defect in the administrative decision that can lead to cancellation, the court will issue its decision to cancel the administrative decision. The cancellation of an administrative decision by the judiciary is only retroactive, meaning that it nullifies the decision from the date of its issuance. The bodies responsible for oversight of administrative decisions in Iraq are the Administrative Judiciary Court and the General Disciplinary Council.

Based on the above, this research will address the distinction between the withdrawal of sound (legitimate) administrative decisions, whether individual or organizational, and the withdrawal of unlawful administrative decisions, as follows:

Section One

Withdrawal of Legitimate Administrative Decisions

The general rule is that valid administrative decisions cannot be withdrawn. The exception is that they may be withdrawn in certain cases, as follows:

First - The inadmissibility of withdrawing valid (legitimate) administrative decisions

The general rule, in Islamic jurisprudence, is that valid administrative decisions cannot be withdrawn. This protects the principle of legality and guarantees the acquired rights of individuals, whether regulatory or individual decisions. Although regulatory decisions do not create personal positions, they create public positions. This is in order to stabilize legal situations and apply the principle of non-retroactivity of administrative decisions. However, the general rule is not applied in its entirety. However, the administrative judiciary in France has somewhat softened the severity and strictness of the aforementioned rule, which states that "rights and legal positions established on a sound legal basis must be respected and not infringed upon." This softening is based on distinguishing between

decisions that create rights and those that do not create rights. To further clarify the principle of the inadmissibility of withdrawing legitimate administrative decisions, we distinguish between individual decisions and organizational decisions as follows:

1. Individual decisions - as the basis for sound individual administrative decisions, an administration may not withdraw them, for reasons of appropriateness, such that it may not withdraw its sound individual administrative decisions if they create acquired rights for individuals, in compliance with the principle of non-retroactivity of administrative decisions. Most administrative decisions generate rights for individuals and therefore may not be withdrawn, as the withdrawal of an administrative decision must be carried out by another administrative decision, with retroactive effect going back to the date of issuance of the first decision. While the general principle is the non-retroactivity of administrative decisions, the inadmissibility of withdrawing sound and legitimate decisions was only established as a rule to protect the rights that arose from the decisions and were legitimately acquired by individuals. If no rights are left behind from the decisions, there is no point in applying this rule. Therefore, it is permissible to withdraw administrative decisions that do not generate acquired rights. For example, it is permissible to A legitimate regulatory decision may be withdrawn if it has not been implemented through individual decisions that grant rights to individuals. An individual decision may also be withdrawn if it does not infringe upon an acquired right, such as withdrawing a decision to deport a foreigner from the country, or withdrawing a decision to impose a disciplinary penalty if this decision does not infringe upon the acquired right of another employee.

2. Exceptions to the rule that valid (legitimate) administrative decisions may not be withdrawn: There are exceptional cases in which the law allows the administration to withdraw its legitimate decision with respect to individuals (individual decisions) when the withdrawal is based on a legislative provision, or when the party benefiting from the decision requests its withdrawal. Withdrawal is considered impermissible if it creates rights for third parties. We will then discuss the exceptions to the administration's right to withdraw its legitimate individual administrative decisions in two cases: (administrative decisions issued to dismiss employees), (second - administrative decisions that do not generate rights for individuals), and (the withdrawal of legitimate organizational administrative decisions) as follows:

A - Administrative decisions related to the dismissal of employees

Administrative courts in Egypt and France have permitted, for considerations related to justice and humanity, the withdrawal of a decision to dismiss an employee, even if it was issued correctly and in accordance with the law, provided that the withdrawal decision does not affect the acquired rights of individuals, as if another employee were appointed to fill the position held by the dismissed employee. The administration's withdrawal of the decision does not mean that there was any error on its part, and therefore the reinstated employee does not have the right to request compensation for the decision to withdraw his dismissal. Jurists recognize that this exception can only be justified on the basis of justice and compassion on the part of the French State Council with regard to the category of employees, because the conditions of appointment may change after the employee's dismissal, so if it is desired to reinstate him again, it may not be possible. The new stage applies to him, and for this reason the Council preferred to consider the return to the job as a mere continuation of the previous work, by canceling the dismissal decision retroactively. The French State Council was given the opportunity to approve the previous case and clarify it (the decision issued to dismiss the employee, whether it was correct or incorrect, its withdrawal is permissible in either case, because if it is considered to be in accordance with the law, then the withdrawal here is permissible as an exception, even though the withdrawal is not permissible in principle due to the exercise of discretionary power, but they allowed the review of decisions to dismiss employees, and their withdrawal for considerations related to justice, because the employee's connection to the job is supposed to be severed as soon as he is dismissed, and because in order to return him to service, a new decision must be issued regarding his appointment. However, it may happen during the dismissal period that the conditions for the validity of the appointment change, and the appointment may become impossible, or the dismissal may have a negative impact on the employee's service period or seniority. On the other hand, the authority responsible for appointment may change and become different from the one that dismissed the employee, and it may not have the willingness to repair the harm that befell the employee by his dismissal or other considerations of justice. Based on this The French State Council ruled that the administration's right to withdraw a valid dismissal decision was restricted to the administration's failure to appoint another employee to fill the position of the dismissed employee in a valid appointment, because reinstating the dismissed employee means withdrawing the decision of the newly appointed employee in a valid appointment.

b. Administrative Decisions That Do Not Create Individual Rights

The general rule upon which the non-retroactivity of administrative decisions is based is respect for acquired rights or personal positions acquired by individuals under previous legislation. French and Egyptian courts have permitted the retroactivity of administrative decisions in valid individual decisions, provided that individual administrative decisions do not create a right. The retroactivity of decisions here is more apparent than real. The administration may withdraw its decisions at any time it deems appropriate, because the restrictions imposed on the administration, if they create benefits and rights for individuals, cannot be deprived of them. The administration may withdraw its decision if it deems that an employee has been wronged. It is not permissible for an administrative body to establish a personal position by maintaining a penalty imposed without a legal basis. Therefore, the administration may withdraw this decision at any time without being bound by a deadline. It is preferable not to permit retroactivity except within the narrowest limits. To remedy the effects of the decision to be withdrawn, it is sufficient to issue a new decision in accordance with the new legal conditions, with an effective effect from In cases where this is permissible, if the administrative decision is not of the type that creates rights or does not generate acquired rights, then the basic reason for not withdrawing valid administrative decisions is negated, because withdrawal does not threaten the rights and legal positions of individuals in this case. On this basis, the administrative judiciary has authorized the administration to withdraw its legitimate decisions that do not create legal advantages or positions, including its decision to withdraw a decision to impose a disciplinary penalty on one of its employees because this decision is not related to the acquired right of another person. From here, the issue of regulatory administrative decisions arises, as they create general legal positions and therefore do not create any acquired rights for individuals. This means that regulatory decisions can be withdrawn at any time, but this right is restricted to the decision not creating rights for individuals, even indirectly. T - Withdrawing Legitimate Administrative Regulatory Decisions

The process of withdrawing regulatory administrative decisions does not pose any problems, as they do not create individual rights. Thus, if a regulatory administrative law is issued, it may not be withdrawn. Generally, regulatory decisions do not create acquired rights, and therefore may not be withdrawn unless they are applied individually, such that they become the status of individual decisions, which may not be

infringed upon because they create personal legal positions for individuals. However, if they are not applied individually, their effects remain limited to creating general legal positions. Therefore, jurisprudence and legal reasoning have permitted the withdrawal of these decisions. From another perspective, regulatory decisions, unlike individual decisions, do not create personal positions, but rather generate general positions. These positions do not entitle individuals to rights unless they are applied individually. Therefore, valid regulatory decisions may be withdrawn simply because they do not create personal rights or positions. However, it is accepted in jurisprudence that a regulatory decision may not be withdrawn retroactively, as regulation is only for the future, not the past. By referring to the decisions of the Egyptian State Council, we see that It is not clear, as most of its rulings proceed as follows (its ruling of 1/13/1948 states: A distinction must be made between organizational administrative decisions and individual administrative decisions, since while the administration may withdraw general organizational decisions, whether by cancellation or amendment, at any time as required by the public interest, it may not withdraw individual decisions...). Likewise, its ruling of May 4, 1949 (This court's jurisprudence has settled on the distinction between organizational decisions and individual decisions, and that the administration may withdraw organizational administrative decisions, whether by cancellation or amendment, at any time as required by the public interest...). Likewise, its ruling of April 11, 1950 (If the decision is not individual and intended for the plaintiff, but rather a general organizational decision, then it applies to everyone, and the relationship that connects the employee to the directorate council is an organizational relationship, not a contractual one, and the administration has the right to withdraw the general organizational decision at any time required by the public interest). The state's judiciary is almost settled on The permissibility of withdrawing the regulatory decision, and he did not specify the provisions of this withdrawal or its limits, nor whether the regulatory decision includes sound or defective decisions, and that the majority of the rulings of the previous Egyptian State Council were in fact dealing with the provisions of withdrawing individual decisions, not regulatory decisions, and that the sound regulatory decision does not fall outside of one of two assumptions:

□ That the regulatory decision has been applied individually, and thus individuals have acquired new rights or personal positions under it, which are sound and cannot be infringed upon. Therefore, the sound regulatory decision cannot be withdrawn, i.e. it cannot

be cancelled retroactively, because withdrawal means the nullification of the regulatory decision retroactively, from the date of its issuance, and thus it leads to the nullification of the individual decisions issued pursuant to it or in application of it, which is not permissible otherwise. □ If the regulatory decision has not been implemented, and its effect is limited to the establishment of general legal centers that individuals have not benefited from, then it is incomprehensible to cancel it retroactively, as the benefit of retroactivity does not appear, and the withdrawal is tantamount to cancellation for the future. Therefore, Dr. Al-Tamawi supports the opinion that states the impossibility of withdrawing sound regulatory decisions, i.e. it is prohibited to cancel them retroactively, and the administration's right to cancel them, amend them, or replace them with others is limited to the future, which is what has been settled and the reality of the situation, because the regulation is only conceived for the future, not the past.

Section Two

Withdrawal of Illegal Administrative Decisions

The general rule in administrative judiciary is that the administration may withdraw its illegal decisions as a penalty for their illegality and out of respect for the law, either on its own initiative or based on a grievance. The basis of this rule is that illegal administrative decisions do not create acquired rights for individuals, and therefore their effects are nullified with respect to the past and the future. Accordingly, the decision to be withdrawn must be illegal, as it must be flawed by one of the defects of the administrative decision, namely (form, jurisdiction, violation of the law, reason, or deviation of authority). The withdrawal of the decision may be total, or it may be partial if the defect is in a part of it, and the administrative decision is divisible. The authority that has the right to withdraw the decision is the authority that issued it or the higher presidential authority, unless the legislator grants this right to another authority. The administrative judiciary has stipulated that defective individual administrative decisions must be withdrawn within the legal period for challenging them for annulment before the judiciary, which is (60 days) from the date of issuance. Issuance of an administrative decision. If the period has passed and the administration has not withdrawn its decision, the defective administrative decision is immune from any cancellation or amendment. The rule for withdrawing defective decisions remains based on two foundations: (the illegality of an administrative decision does not create rights) and (the withdrawal of unlawful decisions is a penalty for their illegality and a remedy for the error committed by the administration. Thus, the administration that issued the decision or the

authority responsible for issuing it, as well as the judge, have the authority to revoke the decision retroactively). This link between the administration's right to withdraw its defective decision as a penalty for its illegality and the possibility of its annulment through the judiciary is evident in an important rule in this regard, which is to make the period within which the administration may not withdraw the defective decision the same period within which the defective decision may be appealed before the judiciary, which is usually a period of two months. In the event that the administrative decision is appealed before the judiciary, the administration may withdraw the decision at any moment prior to the issuance of a ruling on the appeal. As for unlawful administrative regulatory decisions, the administration may withdraw them at any time it wishes, as required by the public interest. However, countries with administrative judiciaries The legislator stipulates that a cancellation suit must be filed within a period of (60 days/Egypt) and (two months/France), so the administration in these countries can withdraw its defective decisions within the period stipulated for filing a cancellation suit. If this period expires, the defective administrative decision is protected against judicial cancellation and against administrative withdrawal, as the following rules can be indicated regarding the withdrawal of administrative decisions as approved by the administrative judiciary:

1. The administration must withdraw its unlawful decisions; indeed, it is its duty to do so, and its commitment to do so is a legal obligation. If a stakeholder requests the withdrawal of a flawed decision and the party fails to do so, the refusal to withdraw the decision may be challenged before the courts.
2. The administration has the right to withdraw its flawed decisions, based on illegality, not inappropriateness. A legitimate, inappropriate decision that subsequently becomes inappropriate may not be withdrawn. Withdrawal is a penalty for illegality, not for inappropriateness.
3. The administration's right to withdraw its unlawful decisions is restricted to the administration withdrawing them within the appeal period. The administration may also withdraw the decision after filing the annulment lawsuit and during its review, provided that the withdrawal is within the limits of the claims presented in the lawsuit.

However, the rule of adhering to the withdrawal of flawed administrative decisions has some exceptions, through which the administration can withdraw its decisions without being bound by the appeal period:

First - The Null Decision

This is a decision tainted by a serious defect that strips it of its administrative character and renders it merely a purely material act, such as the usurpation of authority by an ordinary employee who does not possess the status of a responsible employee and performs administrative tasks and powers that do not carry the administrative character. The administration has absolute authority to intervene and withdraw its null decisions without being bound by a specific time or period. This is due to the nature of the null decision itself. The claimant may also resort to the judiciary at any time, requesting its annulment without being bound by the deadlines for filing an annulment lawsuit. Some jurists have held that withdrawing these decisions is not necessary, and the administration can ignore them without explicitly announcing this. However, it does so out of a desire to clarify matters for individuals. Therefore, it is not permissible to adhere to a specific time limit for withdrawing its null decisions. Examples of such decisions include a decision issued by an ordinary individual who does not have the status of an official. The employee, or from a private body that has no connection to the competent administration. Second - Administrative Decisions Based on Fraud or Deception

If the administrative decision is issued based on fraud or deception by the beneficiary of the decision, i.e., if the beneficiary acted in bad faith by forcing the administration to make the decision as a result of his fraud or deception, then he is not worthy of protection. Administrative courts in France and Egypt have established the right of the administration to withdraw a decision based on fraud or deception by the beneficiary. The administration may withdraw the decision without being bound by the withdrawal period, because in this case, there is no justification for protecting the legal status of this person, who used fraudulent methods to mislead the administration and force it to issue the decision based on the rule that says (fraud spoils everything). In this case, the beneficiary must have used sufficient fraudulent methods to influence the administration, and these methods must have prompted the administration to issue this decision. An example of this is (a decision to appoint an employee based on his submission of forged experience certificates). It may also be a purely negative act in the form of deliberate concealment by the concerned party. Some basic information that the administration is ignorant of, and it is not easy to discover it in another way, and its ignorance affects its will, despite the knowledge of the concerned party (the beneficiary) of this information and its importance and danger. Among the rulings of the Supreme

Administrative Court in this regard is its ruling issued on (February 27, 1965) in a case related to the dismissal of an employee due to forgery, but he applied for appointment again and succeeded in concealing the matter of his previous dismissal. The Supreme Administrative Court in Egypt decided (that the decision to appoint the plaintiff is an absolutely null and void decision, not only because it violates the provisions of the law in a fundamental violation, but also because it is a decision based on fraud, and a person may not benefit from his fraud and bad faith, and such a decision does not acquire immunity no matter how long it has been issued, and it may be withdrawn at any time). Third: Administrative decisions based on restricted authority

These are decisions in which the legislator does not leave the administration freedom of discretion. The administration may retract its decisions whenever it errs in applying the law, without being bound by a specific period. An example of this is (decisions issued based on restricted authority, such as the administration's decision to promote an employee based on seniority). When the administration errs in observing this condition and issues its decision bypassing the eligible employee for a more junior employee, it may withdraw the promotion decision, without being bound by a specific period. Conversely, if the administration exercises discretionary authority, it may not retract its flawed decision except within the specified period by appealing for cancellation. In such decisions based on unlawful decisions, it is decided to either judicially annul them or administratively withdraw them.

Fourth: Administrative decisions that were not published or announced

The administrative decision is considered enforceable against the administration from the date of its issuance, as the administration is presumed to be aware of the decision it issued, while it is effective against individuals from the date they become aware of it through the legally prescribed methods. Accordingly, the administrative authority may withdraw administrative decisions that have not been published or announced at any time, and this is especially true with regard to defective administrative decisions that have not been announced or published.

CONCLUSION

1. Administrative decisions do not remain in effect forever; they are subject to expiration. This is because administrative decisions, like all other processes, keep pace with development and change, regardless of the length of their validity and enforceability. This enforceability has a limit at which the administrative

decision ends, which is the final stage of the administrative decision and is known as "the end of the administrative decision." Therefore, the existence of an administrative decision does not end except by the express or implicit will of a competent public authority (legislator, judiciary, public administration), by ending the existence of the administrative decision.

2. The administrative decision may end naturally, or it may end by the intervention of the public authority in two ways: either by ending the effects of the administrative decision with respect to the future while its effects with respect to the past remain intact, and this term is called cancellation, or it may lead to the nullification of the administrative decision with respect to the past and the future, and it is called (withdrawal), such that the administrative decision is considered as if it did not exist.

1. Administrative decisions may come to a natural end when their contents are implemented, when the specified period for their validity expires, when the purpose for which they were issued is exhausted, or when it becomes impossible to implement them due to the lack of a place for them or the death of the beneficiary, or other reasons that no authority has any role in determining. The end of administrative decisions may be unnatural, such as when a public authority intervenes to terminate them, when the legislator or the judiciary intervenes to cancel them, or when the administration withdraws or cancels the decision. 2. The administrative decision may be cancelled for the previous decision in all its parts (total cancellation), or the cancellation may represent the contents of the previous decision by the result of comparing the previous decision with the new decision, which is the partial decision, or the amendment to the previous decision. The right of the administration to cancel its administrative decisions varies according to their scope, whether its decisions are individual or organizational, as the administration has broad freedom to cancel organizational decisions. However, if it is individual, the matter also differs from one decision to another, as the decision that stipulates acquired rights for individuals differs from the decision that does not stipulate such rights. 3. In this sense, withdrawing an administrative decision is similar to judicial annulment, as it terminates all legal effects arising from the administrative decision from the date of its issuance. Suppose the administrative judiciary has the right to annul flawed administrative decisions from the date of their issuance within the annulment appeal period. In that case, logic dictates that the administration can withdraw its flawed decisions within this period, avoiding lengthy litigation procedures.

Proposals

1. Develop legislation by enacting clear and specific legislation to regulate the process of terminating administrative decisions, including annulment and withdrawal.
2. Establish clear and specific criteria for terminating administrative decisions, including the period specified for their validity and fulfilling their purpose.
3. Strengthen and activate the judiciary's role in monitoring administrative decisions and ensuring their legitimacy, including the right to annul and amend flawed decisions.
4. Provide mechanisms for withdrawing flawed administrative decisions within a reasonable period, avoiding lengthy litigation procedures.
5. Train administrative staff on handling and terminating decisions according to precise and accurate administrative procedures.
6. Promote transparency in the administrative decision-making process and how to terminate them.
7. Review administrative decisions periodically to ensure they remain valid and effective for the purpose they were issued.

RECOMMENDATIONS

1. Draw legislators' attention to the need to develop clear and specific legislation to regulate terminating administrative decisions.
2. Strengthen the judiciary's role in monitoring administrative decisions and ensuring their legitimacy.
3. Provide mechanisms for withdrawing flawed administrative decisions within a specific and reasonable period.

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