

The Impact of The Illegal Administrative Decision on Job Obligations

Dr. Rasha Shakir Hamid¹, Zuhair. A. Abd Al-kadhem^{2*}

Abstract

It is agreed that administrative decisions have a legal effect that changes the legal positions of the public employee, whether negatively or positively. They also have another effect, which is the material effect, which means transforming the content of the administrative decision into practical reality.

A public employee must perform specific tasks; In order to ensure the proper functioning of public facilities, these tasks and duties are not specific and exclusive, but rather they are general duties resulting from the nature of the public job. If he violates them, he exposes himself to accountability and discipline.

The obligations of the public employee are the second part of his legal status. Although they were originally imposed on him by the text of the law, the administration has a major role in imposing them by managing the public facility and distributing tasks among employees, by issuing administrative decisions that include distributing tasks and imposing obligations. These decisions must be issued in accordance with the objective and formal conditions specified by law. If they violate this, they are considered defective due to the defect of illegality and are therefore subject to cancellation.

Keywords: *administrative, non-decision, project, obligations, employee.*

Introduction

First: The importance of research

The importance of researching the issue of the impact of the illegal administrative decision on the public employee's obligations, first of all, stems from the lack of sufficient and explicit legal provisions that regulate and address the problems of illegal administrative decisions that affect the public employee's obligations, as most of the solutions that address this are made by the administrative judiciary, whether In Iraq or in the countries under comparison.

Second: The research problem

The problem of this research arises from the lack of legal regulation that addresses the impact of the illegal administrative decision on the rights of the public employee, even if there are some general legal provisions that do not solve the problem adequately. The research problem arises through several questions, perhaps the most important of which is: How can we find solutions? Legal law that solves the problem of the impact of an

¹ College of Law, University of Kerbala, Iraq, rasha.s@uokerbala.edu.iq

² College of Law, University of Kerbala, Iraq, Zuhaer.abbas78@gmail.com

illegal administrative decision on the public employee's obligations, creating a state of balance between the interest of the public utility and the interest of the public employee?

Third: Research methodology and scope

The study, for the purpose of becoming familiar with the theoretical and scientific aspects of the research topic, requires following the investigative and comparative approach to national legal texts. After that, we analyze and compare them with each other, guided by relevant judicial rulings, jurisprudential opinions and analyzes in order to arrive at the most important legal provisions regulating the topic of the impact of an illegal administrative decision on the obligations of the public employee. , and clarifying the legal framework for the research topic and identifying weak points in the legislation in question. In order to fully understand and cover all aspects of the research topic, the comparative approach was used. This is for the purpose of reviewing the legislative and judicial experiences in this field, in France and Egypt, and comparing them with the position of the Iraqi legislation and judiciary.

Fourth: Research plan

To clarify the subject of the research, we divided it into two requirements. We devote the first to explaining the public employee's obligations, and the second to discuss the consequences of those obligations if they were decided to impose them pursuant to an illegal administrative decision. At the end of our research, we will address the most important results and recommendations that we have reached.

The first requirement

Introducing the financial rights of a public employee

The rights of a public employee are determined according to peremptory rules that apply one application, as they are a general rule for all employees. This means that it is not permissible to agree on anything that contradicts them with this or that employee. From a universe perspective, the principle of equality is not absolute. We may find diversity in the content of some rights, especially If it relates to some employees who are in a special position that differs from the general position applied to all employees.

The rights of a public employee are generally represented by financial rights determined primarily for the job in view of each job category, but they are also determined in consideration of the benefit of the employees in order to ensure a decent life for them. These rights carry multiple forms that differ from one country to another, even if they carry the same purpose and the same sum as financial rights for a public employee.

In order to clarify the topic of the research, we divided it into two requirements, the first of which we devote to explaining the definition of the public employee's obligations, and the second requirement to examining the consequences of those obligations if they were decided to impose them pursuant to an illegal administrative decision, as follows, in turn:

First requirement:

Introducing the public employee's obligations

In order to ensure that the public employee knows his legal position; Legislators are keen to include in legislation pertaining to the civil service and legislation pertaining to the responsibility of the public employee resulting from violating the obligations imposed on him, the legal principle that public jobs are assigned to those who perform them, with the aim of serving citizens in order to achieve the public interest in accordance with the applicable laws, regulations and regulations, as public jobs in some countries were It was based on the element of authority, not on the element of public service, and therefore it was considered a reward or honor for those who had certain connections with the ruler, and in light of this, the employees considered themselves an excellent category.

We have already shown in the first chapter that the employee has the right to obtain various rights. The accepted rule is that every right is accompanied by a duty or obligation, and the logic of employees' duties is based on a basic rule that requires them to carry out everything required by the duty of their job, and to avoid everything that contradicts it. This duty, whether stipulated in detail in the law or not, has been stated in Iraqi legislation and the legislation in question.

It is worth noting, and on this basis, that all the texts mentioned in this context, which included duties, were mentioned by way of representation, not by way of limitation, and in our request we will present the most important obligations of the public employee, whether positive or negative, which are mentioned in Iraqi law and the laws in question. The comparison in this area is as follows:

First branch:

Performing job duties in the conditions determined by the legislator

Performing job duties is the first and most important obligation of the employee, who must carry out what his boss entrusts him with, and this is without his commenting on the suitability or appropriateness of the work mentioned. Distribution of work is the responsibility of the administrative head alone, and if the employee is permitted to object to the type of work assigned. Therefore, this objection is subject to the sole discretion of the administration, and as long as it does not respond to the objection, the employee must carry out the work he was assigned, and which the administration insisted on performing, and he does not have the right to appeal a decision related to the organization of work in the public facility (1).

The first fundamental obligation of a public employee is to perform the work himself, at the time specified for him, and in the place designated for that. This duty is considered part of the public order, and it is not permissible for the public employee to waive it or delegate someone else to do it because it is related to the rules of jurisdiction specified by law (2).

The employee must perform his job duties himself with honesty and a sense of responsibility, and this obligation begins from the date he begins performing his job, as he must regularly attend the workplace and perform the work and duties of his job during the hours specified for official working hours. The employee may be assigned to work outside official working hours if necessary. This is in the public interest, and he must devote working hours to job work. The employee performs these duties himself and may not delegate them to others, except within the limits permitted by authorization (3).

The employee's work during working hours must be productive. This duty does not mean that the employee is present at his job site without performing work. It is also permissible for a public employee to be assigned to work other than the pre-determined official times if the public interest requires that, and he may receive additional pay in return for that .

A question may arise here: How do you determine the public employee's obligations and job duties? The obligations of a public employee may be specified in a law or regulatory decision, and if that happens, no problem will arise for him, but they may often not be specified in clear and explicit texts, which raises major problems at work.

Some believe that the duty of detailing the daily work of each employee is a shared responsibility between the administration and the public employee, as the administration must define each employee's work and describe it to him in detail, and the employee must check with his superiors to clarify the limits of his duties and tasks and clarify any ambiguity in that, in addition to The administration may assign the employee to carry out any work that he can do to serve the requirements of running the public facility, and the

employee must comply with this assignment, even if it falls outside his original powers and tasks (4).

The French legislator has obligated the public employee to perform his duties with all dignity, integrity, impartiality and uprightness, and to perform them in accordance with the principles of secularism followed in state policy, and to refrain from expressing his religious opinions, and to treat everyone who benefits from the public facility with all respect and to treat them well and without any discrimination between them (5).

The Egyptian legislator stipulated in the Civil Service Law that: “Civil jobs are a right for citizens on the basis of competence and merit. They are assigned to those who hold them to serve the people, and the state guarantees their rights and protection, and that they perform their duties in caring for the interests of the people (6).” And on the basis of that, the Egyptian legislator considered Public employment is a right and a duty. Also, the public employee has been obligated to adhere to all legal rulings and regulatory decisions issued related to the public employee’s obligations, and he is prohibited from doing any work that is inconsistent with the honor of the public job, adhering to the specified time for work and not engaging in any political work at his workplace (7) .

The Iraqi legislator does not differ from the Egyptian and French legislators on the issue of the public employee’s obligations, but he expanded them on the one hand, and on the other hand, he did not mention them in the Civil Service Law, but rather did so in the amended Law of Discipline of State Employees No. (14) of 1991, and he considered the public job It is a national duty and an obligation on the public employee not to do any act that harms himself or his dignity or harms the dignity of his job, and that he does not violate the dignity of his colleagues as well as the dignity of the beneficiaries of the public facility, after he performs the duties of his job with all honesty and sincerity (8).

Second section:

Obedience

According to what is called the administrative ladder, the lowest-ranking employee must submit to the highest-ranking employee, which is known as presidential authority, according to which the administrative head may direct the subordinate in performing his job duties, and he may cancel or modify his work, if he finds that it violates the law or that it is Inappropriate, the subordinate must obey his superior's order (9).

The duty of a subordinate to obey his superiors represents one of the important duties that falls on the public employee, and the success of the administrative organization depends on how orders are received and how they are implemented.

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The president’s authority over the actions of his subordinates includes his right to direct them by issuing orders and directives to them before carrying out their work and the authority to monitor their implementation of these actions and comment on them. The president has the authority to issue orders and instructions that are binding on them, and the employee’s obedience is something imposed according to the nature of the public job and the necessity of its continuation. However, this obedience It must be limited to what is related to job work alone and may not extend to the employee’s private life unless the private life affects the employee’s performance of his work (11).

In France, this duty is stated in the French Employment Law, which stipulates that “every employee, whatever his rank on the administrative ladder, who is responsible for carrying out the tasks assigned to him must submit to the instructions of his superiors, except in the event that the orders given are clearly illegal and of a nature that seriously harms one of the public interests.... (12)”.

In Egypt, the Egyptian legislator has obligated the public employee to “implement the orders issued to him accurately and honestly, within the limits of the applicable laws, regulations, and systems. Every superior bears responsibility for the orders issued by him and is also responsible for the proper conduct of work within the limits of his jurisdiction (13).”

The Supreme Administrative Court in Egypt also ruled that directing orders from superiors to their subordinates comes out of concern for the proper conduct of work and is something imposed by the principles of administrative organization and cannot affect the future career of the employee or his technical competence if they are taken into account and implemented well, and this explains the purpose of the commitment. Search location (14).

In Iraq, this duty was stipulated in the Law of Discipline for State and Public Sector Employees, which stipulated that “the employee must abide by the following duties:... respecting his superiors, adhering to politeness and propriety in addressing them, and obeying their orders related to the performance of his duties within the limits required by laws, regulations, and instructions. If in these orders violation: The employee must explain to his boss in writing the nature of that violation, and he is not obligated to implement those orders unless his boss confirms them in writing, and then the boss is responsible for them (15) ”.

Section Three:

Duty not to disclose secrets

The public employee, by virtue of his work, has access to secrets that would not have been possible for him to know if it were not for his work in the public office. The purpose of that obligation is to preserve the public interest, whether it relates to the public facility or to its beneficiaries.

This obligation is intended to preserve the public interest or the interest of individuals to whom the secrets in question relate, and breach of this duty results in the disciplinary responsibility of the employee and the criminal responsibility of the public employee, as well as his demand for compensation for the material and moral damage that befalls those whose secrets were revealed (16).

This obligation continues even after the end of the public employee’s service, regardless of how his service ended, but this disappears if the matter loses its confidentiality, or becomes known by its nature, or the order that imposed this confidentiality is cancelled, or the competent authorities allow the secret to be disclosed, or the permission of the owner of the secret is granted. By disclosing it or if revealing the secret would prevent the commission of a crime (17).

It is worth noting that these obligations are general obligations that every employee must adhere to, and there are also some obligations imposed on some employees and not others, and they were stated by the legislator in special laws regulating a specific facility, such as the University Service Law and others, and these obligations do not differ from the general obligations of In terms of the obligation of commitments, and in terms of the impact of management decisions on them.

The second requirement:

The consequences of the illegal administrative decision on the public employee’s obligations

We will find later that the principle of the legitimacy of establishing public employee responsibility aims to inform the employee in advance of the duties and obligations whose violation will result in punishment being imposed on him, and to inform him of the

nature of the punishment that he may receive. To clarify his position and situation and to be aware of his affairs (18).

The obligations of the public employee, even if they are originally established under the legislation related to the organization of the public job, and since they are not specified exclusively, it may often happen that administrative decisions are issued that have a direct relationship to determining and imposing obligations on the public employee, and when these decisions are implemented It has many effects in the field of the public employee's obligations, expanding or narrowing, and it may happen that the administrative decision in question is an illegal decision. The question that arises here is what is the result of the illegal administrative decisions on the public employee's obligations that we mentioned in the first requirement, and this is what we will try to answer and our demand. This and the following branches, as follows in succession:

First branch:

Increased public employee obligations

The obligations of the public employee were originally imposed under legislative texts, but the administration may issue a type of administrative decisions that include obligations imposed on the public employee. These decisions are often issued in the form of (publications and departmental orders), which are orders and instructions issued by the president. The department to his subordinates includes the interpretation of existing laws and legislation, and how to implement them. These orders and circulars are originally directed to employees, and they are obligated to respect them and obey the orders contained therein, as they are the correct interpretation of the laws and regulations, based on the duty of the subordinate to obey his superior, but these orders have no effect before Individuals, and for them it does not include any change in legal status (19).

The management decisions, according to which the public employee is assigned to carry out some new tasks, are decisions that have an impact on the legal status of the public employee. Because it imposes on them a new duty in addition to the duties of their original jobs, such as the administration's decision to form an investigative committee, whose members impose a new duty in addition to their original duties. If they refrain from carrying out their work duties in the committee without a legitimate excuse accepted by the administration, it is permissible for it to hold them disciplinary accountable for that, and they can appeal. That decision is before the administrative judiciary, if it is tainted by one of the defects of the administrative decision (20).

If the administration exploits its authority to issue publications containing new provisions that are not based on the law and include an increase in the legal obligations imposed on the public employee, then these publications are considered administrative decisions, and therefore they may be canceled, and the final word in this area is left to the judiciary.

We can say that a public employee's obligations are flexible; Because it depends on the behaviors that the employee must adhere to while exercising his job duties, and the standard for everything is the criterion by which something is known in a way that removes confusion and ambiguity, and every knowledge has its purpose and standard, and the standard here is a tool for evaluating the behavior of the public employee, and when examining the texts of the laws. Discipline in comparison, we find that the standard revolves around the existence, non-existence, quantity and quality of the continuation of public facilities, the dignity of the public job, the dignity of the public employee, and the dignity of those who benefit from the services provided by public facilities.

The above standard is a legal standard. The legislator regulates and defines the obligations that the employee must perform, which are consistent with the public job, as well as what he must abstain from, which can be called negative obligations. However, given that the public job rules are an integral part of administrative law and flexibility

The aforementioned law and its development; Therefore, its texts do not accommodate the reality that refuses definition and stagnation. Otherwise, this flexibility, even if it affects the public employee's obligations, is restricted by legal standards, and it revolves within the orbit of the law, because the law is affected by the principle of ensuring the regular and steady functioning of public facilities, while establishing the right of the administration to exercise its supervisory and leadership role over its employees in devising and determining the obligations of the public employee in accordance with the requirements of the public interest and in compliance with the legal system (21).

The public employee's duty to respect and obey the administration's orders is a moral and legal obligation, as his job duty is dictated by legal, humanitarian, professional, and objective considerations. The public job exists only to serve the public interest, so it is not permissible to go out and rebel against the public interest. However, the legislator has guaranteed in return for that. The public employee has his rights and has defined his obligations. The administration may not abuse its authority and burden the employee with more than what the legislator has specified, if she does so, her work is considered a violation of the provisions of the law, as pressure in job work generates "a state of physical and psychological stress and hardship that is imposed on the employee with demands and burdens that he must comply with. The pressure may be internal, short in duration, or long and manifest in manifestations that affect the employee's behaviors and actions cause him to feel stressed and distressed because there is a gap between his ability to deal efficiently with the requirements of job work (22).

If the administration issues a decision that increases the burdens and obligations on the public employee, that decision can be appealed and compensation may be claimed for the harm he suffered as a result of implementing the obligations received in excess of what the legislator decided, unless this is when there is a necessity that allows the administration to do so (23).

It is recognized that the law was established to serve the public and achieve their legitimate interests, including state employees, and not to harm them, so the legal rules become a whip for the administration. The administration implements the law to transfer it to scientific reality in the field of its management of public facilities, and it must grant full rights to those who deserve them, without compromise, nor It takes or imposes more compensation than what is stipulated for those rights. It is not permissible for the administration to interpret legal texts in a way that harms its employees and others, whether that is out of ignorance or intentionally, as it has no right to deviate in its authority to impose an obligation that has no basis in law.

Increasing the public employee's obligations due to an illegal management decision occurs when the administration is granted a kind of discretionary authority in the field of imposing obligations, so it falls under the defect of deviating from authority when issuing the decision. This is because of its arbitrariness when using freedom of discretion in adapting the decision, even if it is citing the public interest, as the judiciary is not restricted by its words when examining that defect. Likewise, it can fall into the defect of deviation in the use of authority in the event that the administration's authority is restricted by the text of the law, and in the event of violating the rules. Legal matters related to job obligations, so its decision is tainted by the defect of violating the law (24).

It is worth noting that the Iraqi legislator authorized the administration to employ its employees for additional hours outside of official working hours, provided that this is done by a written order stating the necessity that calls for this, the tasks to which the employee is assigned during those hours and the period necessary for that, provided that it does not exceed three months each time, subject to renewal. Provided that the direct superior and superior of the employee assigned to work overtime follow up on his completion of the work assigned to him, and this is done under the supervision of the competent minister or the head of a department not affiliated with a ministry, and that the

total weekly working hours with overtime hours does not exceed fifty hours per week, in return for this assignment, the public employee is entitled to an additional wage on top of his deserved salary, and the wage is divided by the number of actual working hours to determine the wage for an hour of overtime. Also, in the event that the employee is assigned to work overtime on weekly rest days and official holidays, he is compensated for that with an alternative rest day or days or is given wages. Additional hours, considering that each hour of overtime is equivalent to two hours of regular work (25).

Second section:

Imposing illegal obligations on a public employee

The duty of the public employee towards the administration is to implement all legal obligations imposed by the law. These obligations that must be implemented and adhered to are not absolute, but rather defined by limits and restrictions. They do not mean stripping the public employee of his will and personality and making him do everything the administration wants him to do. As a follower of the president, he carries out everything the administration orders, according to what we can call blind obedience, and carries out everything that is asked of him or assigned to him without having the right to express his opinion and depriving him of sound thinking and drawing sound conclusions. Subordination of the public employee to his department does not mean Imposing restrictions on the employee while performing his job (26).

The administrative decisions issued by the administration to its employees that include the imposition of job obligations are not always legitimate, as the administration may issue illegitimate decisions, and in that case the employee finds himself in a difficult situation, as he is between two options. The first is to implement those obligations that violate the law and the resulting waste of the legal rules, and the second. Refraining from implementing management decisions that require him to abide by what is stated therein. Here the problem arises of the public employee implementing an illegal obligation imposed by an illegal decision.

o answer the above, jurisprudence was divided into three sections to generate three theories, and therefore we must shed light on them in order to know the answer to our previous question, as follows:

First: The theory of legitimacy

The most prominent people who adopt this theory are the Brigadier General (Deji) and the jurist (Falien). It is based on the principle that the state, as rulers and ruled, are subject to the law. According to this, the public employee is not obligated to implement the administrative decision that includes the imposition of illegal obligations on him. The compulsory force that the administration's decisions have on its employees It is not an absolute power, but rather a relative power. It is not proven unless its decision is in accordance with the law in its broad sense. If the administration violates the legal rules, its decision is considered tainted by the defect of illegality. It is permissible for the employee not to implement what is stated in it, but he is obligated to do so. Accordingly, he is a public employee. In the position of observer of legitimacy in implementing administrative decisions (27).

However, this theory, although it has some validity, clashes with the public employee's disciplinary responsibility, which the administration can raise against him on the pretext that he has violated his duty in carrying out his job duties and obeying his superiors, and that the administration is more knowledgeable than him in the affairs of managing public facilities.

Second: The theory of absolute obedience

According to this theory, the public employee must obey the administrative decisions issued to him that include the imposition of obligations on him. One of the most famous

proponents of this theory is Brigadier General Horio, who obligated the employee to do so regardless of the degree of illegality of the administrative decision, as long as the implementation of that obligation does not amount to committing a crime. One of the crimes stipulated by law (28).

If the public employee carries out the obligation that conflicts with the text of the law, then the responsibility here is transferred to the source of the decision. Therefore, the administration's action by issuing a decision that is contrary to the law, and its work is considered an illegal act, but the public employee's implementation of an obligation imposed on him by the administration is considered a legitimate act. Because the rules of legality are bent in the face of considerations of the presidential authority that the administration enjoys towards the public employee, the employee here is in the process of performing a duty imposed on him, which requires protecting him from the responsibility that accrues to him (29).

The researcher believes that accepting this theory means making the public employee a machine for the administration that is used to implement legitimate and illegitimate administrative decisions, and that proceeding according to the principle of blind obedience to the administration prevents the spirit of thinking that the public employee must have, and takes away from him the spirit of scrutiny and the search for legitimacy in implementing obligations. He is the same person, whether he knows it or not, he deviates from the rules of the law, and this reflects negatively on his work and on the public facility in general.

Third: The theory of the middle

According to this theory, the public employee is not obligated to implement the illegal obligation, as the employee does not comply with a decision issued to him without scrutiny, scrutiny, and research on the principle of legality. Therefore, this theory is the result of a reconciliation between the two theories, the proponents of this theory say that the public employee is required to implement illegal administrative decisions within certain limits, such as if they are written, clear and issued by a competent authority, and that in this case the public employee implements the obligation issued to him and the administration (the source of the illegal decision) bears responsibility for the consequences of that. This opinion was adopted by French jurisprudence, as the jurist (Labande) believes that the subordinate employee is obligated to obey administrative decisions if their formal conditions are met, without searching for objective conditions, due to the difficulty of examining them, and this is what denies responsibility to him, if the decision is unlawful from an objective point of view, such as Ensures the imposition of an unlawful obligation on the public employee, he believes that the employee's duty here is to ensure that the decision is issued in terms of formal legitimacy. However, if the objective illegality is apparent and the implementation of the obligation causes damage to the public facility, and this damage is serious, then the employee is not exempt from his responsibility if he implements it, as he must refrain from implementing it, even if the administration insists on it (30).

The proponents of this theory themselves differed on the issue of finding a compromise between the necessity of the regular and steady functioning of public facilities and respect for the principle of legality. Therefore, they divided into two groups: the first is those who hold the objection theory and the second is those who hold the formal theory:

The theory of objections requires the employee to examine the administrative decisions issued by the administration to him, and if he finds out that they are illegal, he must explain that to his boss and register his objection to the implementation of an illegal obligation. If the administration insists on that, the public employee must implement that obligation while relieving him of the obligation. The responsibility that follows, and if the violation is serious and results in harm to the public facility, then in this case the public

employee is not exempted upon implementation, as he must refrain from obeying, even if the administration insists on doing so (31).

As for the theory of formality, it is attributed to the jurist (Laband). According to this theory, the public employee is given the right to examine and monitor the decision from the formal aspect only, without addressing the objective conditions. If it becomes clear to him from the research that there is a formal defect in the decision, the employee will refrain from implementing it, even if the administration insists on it. If there is a formal defect in it, the public employee must implement it, even if it has an objective defect. Here, the public employee is exempted from responsibility, with responsibility transferred to the source of the decision (32).

The researcher believes that this theory is best suited to solve the problem of illegal administrative decisions issued by the administration. The fact that this theory is based on the compatibility between the duty to respect the law and respect for administrative decisions, and the resulting good conduct of work in public facilities regularly and steadily and avoiding the conflict that occurs between the administration and the public employee; Although this theory obliges the public employee to obey administrative decisions in all circumstances, with the need to draw the administration's attention to its illegal decision, and in the event that the administration insists on the illegal management decision, the public employee's responsibility for carrying out the implementation of the illegal commitment is eliminated, and this is what happened. The Iraqi legislator in the effective law on the discipline of state and public sector employees (33).

Conclusion

First - The results

1. The public employee's obligations are originally imposed by the text of the law, but the administration issues an administrative decision imposing and distributing the obligations among the employees.
2. The employee's general obligations do not require an administrative decision for the purpose of imposing them on the employee, such as obedience, for example, so the employee cannot claim not to be aware of them, even if the administration issues a regulation that includes it, such as a regulation of job conduct.
3. The administration may assign the employee to any work required for the operation of the public facility, and the employee cannot object, even if this is outside official working hours, but the department must guarantee the financial rights resulting from that.
4. If a public employee is issued an order that includes carrying out an act that violates the law, he must notify his boss in writing of the subject of the violation. If the boss insists on implementation, the employee is not responsible.

Second: Proposals

1. We suggest that the Iraqi legislator enact legal texts that reduce the principle of the administration's discretionary authority in the process of issuing decisions to impose obligations on the public employee in order to avoid any mistreatment on the part of the administration and violating the laws.
2. We suggest that the Iraqi legislator explicitly stipulate the protection of the financial rights of the public employee from illegal management decisions that impose obligations on him, as well as stipulating that the employee is entitled to double wages if the employee is assigned to work outside official working hours.

3. We also propose to stipulate within the service law the form of the uniform that the employee wears, in a way that is compatible with the prevailing culture in Iraqi society, in order to avoid disdain for the employee on the one hand and on the other hand the arbitrariness of the administration.

Footnotes

1. Dr. Mazen Lilo Radi, *The Disciplinary System*, 1st edition, Dar Al-Masala, Baghdad, 2020, p. 362.

2. Dr. Abdul Qadir Al-Sheikhli, *The Legal System for Disciplinary Penalties*, Dar Al-Fikr Al-Arabi, Amman, 1983, p. 152.

3. In support of this, the Supreme Administrative Court in Egypt ruled: "...that the career life of a public employee produces its effects day by day, as the employee must come to work every official working day during which he was not explicitly authorized to interrupt, at a specific time of the hour and minute, otherwise... He leaves his work only at a specific time, and in return he receives a monthly salary, and this salary is essentially the main source of his living expenses. The employee must also obtain permission or a license to stop working, even if it is for some time in one work day, as well as informing the presidential authority of any sudden interruption, and that he himself, as well as the employer, must take measures appropriate to each circumstance of absence, including illness, which must be reported to the presidential authority within a period specified by law in hours, and his employer must refer him to the competent medical authority as well within the specified period. Within the same limits, even for special leave without pay, including mandatory leave, the worker must apply for it and complete procedures regulated by law to provide the administrative authority with the opportunity to arrange for someone to replace the leave applicant to carry out his work until he returns to him, in order to ensure the regular and steady operation of the public facility. In all cases, the leave does not exceed one year in most cases, it may not be renewed except upon a request from the concerned party and with the same procedures for licensing it for the first time." Ruling No. (4377 of 44 BC) dated January 15, 2009.

4. Maher Saleh Allawi Al-Jubouri, *Principles of Administrative Law*, 1st edition, Al-Dhakraya Publishing and Distribution, Baghdad, 2022. , p. 229.

5. The text of the French legislative amendment to the Civil Service Law No. (2021-) 1109 of August 24, 2021: "The public employee performs his duties with dignity, integrity, and uprightness in performing his duties. He is bound to be impartial. The official performs his duties in accordance with the principle of secularism. As such, he abstains in a manner He is restricted from expressing his religious views, in the exercise of his functions. The official is trained in the principle of secularism. The civil servant treats all people equally and respects their freedom of conscience and dignity. It is the responsibility of any department head to ensure compliance with these principles in departments under his authority. Any department head may After consultation with employee representatives, he may determine the ethical principles applicable to agents under his authority, by adapting them to the tasks of the department. The employee must immediately put an end or prevent situations of conflict of interest in which he finds himself or may find himself. Within the meaning of this law, any situation of interference between a public interest and public or private interests that is likely to affect or appears to affect To exercise its independent, impartial and objective functions."

6. Article (1) of the Egyptian Civil Service Law No. 81 of 2016.

7. Article (57) of the Egyptian Civil Service Law No. (81) of 2016 stipulates: "The employee must abide by the provisions of this law and its executive regulations and other laws, regulations, decisions and instructions implementing them, and the regulatory

decisions, instructions, bulletins or books issued by the agency.” periodical in this regard, and the codes of conduct and civil service ethics issued by the competent minister. The employee is specifically prohibited from engaging in work that is inconsistent with impartiality, impartiality, and job commitment during official working hours, or practicing any partisan or political work within his workplace, or on the occasion of “Performing this work, or collecting donations or contributions to political parties, or disseminating or promoting propaganda.”

8. See the text of Articles (3 and 4) of the State Employees Discipline Law No. (14) of 1991, as amended.

9. Dr. Suleiman Al-Tamawi, *Principles of Administrative Law (Comparative Study)*, Book Two, revised and expanded edition, Dar Al-Fikr Al-Arabi, Cairo, 2014, p. 481.

10. Dr. Mazen Lilo Radi, *Obedience and its Limits in Public Service*, University Press House, Alexandria, 2002, p. 50.

11. Mazen Lilo Radi, *Administrative Law*, 5th edition, Dar Al-Masala for Printing and Publishing, Beirut, 2019, p. 171.

12. See the text of Article (634) of the French Employees Law of 1983.

13. See the text of Paragraph (8) of Article (76) of the State Civil Workers Law No. 47 of 1978, and the text of Article (57) of the Civil Service Law No. 81 of 2016.

14. Ruling of the Supreme Administrative Court in Egypt No. (6478) of 48 BC, on 3/7/2005.

15. See Clause (Third) of Article (4) of the State and Public Sector Employees Discipline Law No. 14 of 1991, as amended.

16. Dr. Suleiman Al-Tamawi, *Principles of Administrative Law (Comparative Study)*, Book Two, previous source, p. 485.

17. Dr. Mazen Lilo Radi, *Administrative Law*, previous source, p. 173.

18. Abdel Wahab Al-Bandray, *Disciplinary Penalties for Civilian Workers in the State, the Public Sector, and Those with Special Cadres*, Dar Al-Fikr Al-Arabi, Alexandria, 1998, p. 28.

19. Suleiman Muhammad Al-Tamawi, *The General Theory of Administrative Decisions, a Comparative Study*, reviewed and revised by Mahmoud Atef Al-Banna, 7th edition, Dar Al-Fikr Al-Arabi, Cairo, 2012, p. 457.

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21. Dr. Othman Salman Ghailan Al-Aboudi, *Public Job Ethics, a comparative study in the philosophical framework of public job ethics and behavior*, 1st edition, Al-Halabi Legal Publications, Beirut, 2014, pp. 108 and 109.

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28. Nawar Najib Tawfiq Al-Abadi, *Obedience to superiors in illegal administrative decisions (a comparative study)*, 1st edition, National Center for Legal Publications, Cairo, 2019, p. 97.
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30. Dr. Assem Ahmed Ajila, *Obedience to Superiors in Public Service*, 1st edition, Alam al-Kutub, Cairo, 2009, p. 229.
31. Dr. Sabri Chalabi Ahmed Abdel-Al, *Controls on the Employee's Exercise of Political Rights and Freedoms*, 1st edition, Dar Al-Kutub Al-Qawaniyya, Dar Shatat for Publishing and Software, Cairo, 2010, p. 260.
32. Mazen Lilo Radi, *Subordinate's obedience to his superiors within the scope of public office*, previous source, p. 82.
33. Dr. Sabri Chalabi Ahmed Abdel-Al, *Controls on the Employee's Exercise of Political Rights and Freedoms*, previous source, 624.
34. Nawar Najib Tawfiq Al-Abadi, *Obedience to Superiors in Illegitimate Administrative Decisions (A Comparative Study)*, previous source, p. 108.
35. Article (3) Third: of the effective Discipline Law for State and Public Sector Employees stipulates: "Respect his superiors, adhere to politeness and propriety in addressing them, and obey their orders related to performing his duties within the limits required by laws, regulations, and instructions. If these orders contain a violation, the employee must explain His superior shall write down the nature of that violation, and he shall not be obligated to implement those orders unless his superior confirms them in writing, and then the superior shall be responsible for them."

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