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THE ROLE OF JUDICIAL INTERPRETATION IN ESTABLISHING THE RULES OF ADMINISTRATIVE LAW

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Abstract
Judicial interpretation in the administrative field plays a vital and significant role in establishing various legal rules. Judicial interpretation is no less important than legislation, and it is generally understood that judges, especially administrative judges, are responsible for interpreting and implimenting the law to the disputes brought before them. They do so without going beyond to the creation of legal rules, and this is of course due to one of the guarantees ensuring the application of the principle of legality, namely; the principle of separation of powers. However, sometimes the judge resorts to judicial interpretation, especially in administrative law, to solve the problem presented before him, and this is of course due to the fact that administrative law is of a judicial origin.

Keywords: Judicial interpretation, administrative judiciary, legal rule, administrative law.

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INTRODUCTION

There is no doubt that judicial interpretation plays a vital and prominent role in the administrative field through establishing diverse legal rules. Judicial interpretation is no less important than the role of legislation. The general principle is that the judge, particularly in administrative matters, is responsible for interpreting and implementing the law in adjudicating disputes brought before him, without exceeding his authority to establish legal rules.

This is, of course, due to one of the guarantees underlying the principle of legality, namely the principle of separation of powers. However, in some cases brought before the administrative judge, no applicable legal text may be found, and the judge therefore resorts to judicial precedent to resolve the case before him. From this basis, we chose to title our article: "The Role of Judicial Interpretation in Establishing Administrative Law Rules"

This study aims to answer the following questions:

What is the meaning of administrative judicial interpretation, and how does it manifest itself in the establishment of legal rules? To answer these questions, we divide our study into the following two sections: The first section addresses the concept of administrative control. The second section delves into the impact and influence of administrative control on the creation of directives, identifying the conditions under which they may be lifted.

1. Definition of Administrative Judicial Interpretation

1.1. Definition of Administrative Control

The concept of *ijtihad* (jurisprudence) in general implies action, ie; it refers to a person striving and exerting intellectual effort in order to attain a specific goal or objective. In juristic terminology, *ijtihad* refers to the process of deriving legal rulings from the *Qur'an*, *Sharia*, the consensus of the scholars of the Islamic community, and *qiyas* (analogical reasoning).

As for judicial interpretation, it may be explained by reffering to what Professor Musa Aboud, stated in a lecture delivered at the invitation of the Union of Young Lawyers,

entitled: "Judicial Interpretation and its Role in the Moroccan Judicial System". It becomes clear from the definitions found in various legal writings that Judicial interpretation is the sum of legal solutions devised by courts in the course of adjudicating disputes brought before them (Azz Eddine El Mahi, p. 79).

As for the meaning of administrative interpretation, it takes the form of rulings in administrative matters that include principles not addressed by law or that resolve a legal dispute; these are called fundamental rulings or rulings of a specific nature.

These principles, in light of the foregoing, indicate that administrative jurisprudence represents the contribution of the judiciary. In other words, it reflects the additions made by judges, and the results of their efforts in interpreting the law, filling its gaps or supplementing it, resolving contradictions between legal rules, or clarifying the meanings of rules where ambiguity exists (Awamriya, 2014-2015).

In this regard, it is important to highlight the status of administrative judicial interpretation in Algeria. The emergence of judicial interpretation is often attributable to deficiencies or omissions in legislation. Aristotle recognized at an early stage the difficulty of reaching legislative perfection, accordingly, in his book "*Politics*", he addressed judges, urging them to rule and regulate with awareness and wisdom in matters on which the law is silent.

In his book "*Ethics*", Aristotle further outlines the limits of judicial interpretation emphacizing the necessity for the judge to embody the spirit of the legislator, who had been present, would have agreed to complete the deficiency in the manner adopted by the judge in his interpretation.

Through his exercise of his interpretive role, the administrative judge is considered the guarantor of the rule of law. This is achieved through his endeavor to resolve the disputes brought before him, by applying the legal rules that decide the subject of the dispute, regardless of the source of these rules.

This is in order to preserve the principle of legality, which means that the state, with all its components, is subject to the law in its broad sense. From this emerges the role of the administrative judiciary in strengthening and developing administrative law through its derivation of legal principles and provisions appropriate to the evolving legal relationships in the field of administrative law.

Thus, administrative judicial precedent constitutes an official source of administrative law, since the administrative judge may often not find the applicable legal rule for the dispute before him, which compels him to create a rule governing the case; otherwise, he would be denying justice, given that if the judiciary were to establish rules created by it, it would be considered an injustice.This became influential and deserving of respect; these rules were considered general legal principles that cannot be violated (Ben Dhib Zouhair, 2012-2013).

2. Characteristics and Distinctive Features of Administrative Jurisprudence (Ben Dhib, 2012-2013)

Administrative jurisprudence is characterized by several distinctive features, including:

A- Realism and consideration of the circumstances surrounding the dispute: When an administrative judge strives to uncover a legal principle upon which to base his ruling, he balances his judgments with the actual circumstances surrounding the dispute, unlike a civil judge. Therefore, administrative court decisions exhibit adaptibility and realism. This is due to the fact that the judiciary's fundamental characteristic is its constant connection to practical life, from which it derives its rules and to which it applies its rulings.

B- The connection between administrative judicial interpretation and the foundations of the state's political and legal system: It is noteworthy that the administrative judicial interpretation often includes a set of general principles derived from its own interpretation, rather than relying on a specific source; it seeks to deduce these principles from the foundational elements of the State’s political and legal system.

C- The administrative judge exceeding his role as an arbitrator in the dispute: The administrative judge goes beyond the mere application of the law to seeking a balance between the public and individual interests, and thus surpassing his conventional role as a judge in a particular dispute. Through his ruling, the administrative judge becomes a source for the establishment of the general principle and the legal rule it contains.

D- The connection between the administrative judge and the administrative judiciary, and the impossibility of separating them: It is impossible to speak of the existence of administrative law without the existence of an administrative judiciary. The emergence of the French administrative judiciary precedes the establishment of administrative law, and was instrumental in its creation as an independent and distinct body of law.

This is another distinctive feature of administrative judicial interpretation, wherein the judiciary is considered the official and primary source of the rules of this law, and these features are due to the following reasons (Ziane, 2017):

- The of codification of administrative law**;** there is a lack of a comprehensive set of legal principles pertaining to a specific issue within a legislative framework. This compels the judge to be the source of the regulations by which he adjudicates the disputes brought before him.
- The breadth and development of administrative law provisions and the vast scope of its articles.
- The focus on the proper conduct of administrative activities: The administrative judge prioritizes practical considerations for the proper administrative conduct. Administrative judges interpret the texts in a way that is appropriate to the practical life and the circumstances of the dispute before him.
- The dominance of the administrative spirit over the diligence of the administrative judge due to their dual role as both a jurist specialized in administrative matters, and as an administrative judge.

3. The role of administrative courts in establishing legal rules.

While the judicial interpretation of civil courts is linked to legislation, as previously explained, the judicial interpretation of administrative courts is remarkably independent of legislation. Consequently, as Ahmed Mahyou states; "If civil legislation is repealed by the removal of a law, there would be no civil law". Because interpretative solutions would lose their basis, whereas if all administrative legislation were repealed with the same dismissal, the core part of administrative law would remain, since the fundamental rules were derived from interpretation rathen than relying on texts. It is necessary to distinguish between two categories in administrative judicial interpretation: general legal principles and interpretative rules (Ben Abdallah, n.d.)

Since *ijtihad*, which entails exerting effort in deriving legal rulings, and is practiced by the administrative judge, serves as a source of administrative law and contributes to its continuous development, the judiciary, by exercising its aforementioned role, is considered the guarantor of establishing the rule of law, through its endeavor to adjudicate the disputes brought before it. It applies the legal rules that determine the matter of the dispute, regardless of the source of these rules, in order to preserve the principle of legality, which means that the state, with all its components, is subject to the law in its broad sense.

This principle is inviolable for the administrative body during the execusion of its administrative functions, as any action or decision may be presented to the judiciary by the party with standing to examine its legality. From this emerges the role of the administrative judiciary in the development of administrative law.

By deriving legal principles and provisions appropriate to the evolving legal relationships in the field of administrative law, the administrative judiciary thus represents an official source of administrative law, since the administrative judge may, in many cases, not find the legal rule applicable to the

dispute before him. This necessitates establishing the rule governing the case, and serves as the guardian of the principle of legality. In this regard, we refer to the explanatory memorandum of the law establishing and regulating the Egyptian State Council, which states: "Administrative judiciary is distinguished by the fact that it is not merely an applied judiciary like civil judiciary".

Rather, it is largely a constructive judiciary that devises appropriate solutions for the legal relationships that arise between the administration and its management of public facilities and individuals. These relationships differ in nature from those in private law, leading to the development of independent theories within administrative jurisprudence.

The judiciary contributes to the developemnt of administrative law theories, including administrative responsibility, administrative decision, administrative contracts, public funds and exceptional circumstances, as well as legal principles, including the proper and regular functioning of facilities, the adaptability of public facilities and equality before public facilities. Additionally, other principles have continued to evolve within the framework of judicial interpretation, in a manner appropriate to the circumstances that affect the work of the administration (Awamriya, 2014-2015).

4. Manifestations and effects of administrative judicial interpretation on the formulation of legal rules - Conditions for filing an annulment lawsuit as an example

4.1. Conditions for the decision subject to annulment appeal

The prior administrative decision is a crucial condition for accepting an annulment action. For an administrative decision to be valid for annulment proceedings before the administrative courts, certain conditions must be met. To examine these conditions in an annulment action, we must first examine its historical origins and then define the administrative decision (Khaloufi, 2001).

The prior administrative decision in the history of administrative disputes dates back to the status and jurisdiction of the French Council of State in the field of oversight of administrative actions, and this was before the "CA DOT" case. The Council of State used to consider annulment claims through appeal, whereby the litigant was required to submit a prior grievance to the relevant minister.

The minister is the source of the decision. Decisions issued by the relevant minister after a prior appeal are considered a preliminary "ruling" subject to appeal before the Council of State. Professor Lafférière stated that the necessity of the previous decision lies in demonstrating the administration's opposition to the plaintiff's arguments and its position, thus defining the subject of the dispute. Filing an administrative lawsuit against an implicit administrative decision became possible, and some jurists intervened in the discussion of this issue. However, the minister-judge theory remains. It is the primary historical source for the rule of prior decision in administrative disputes (Khaloufi, 2001).

As for the condition of the administrative decision that is the subject of the lawsuit in the provisions of the Civil and Administrative Procedures Law (Law No. 08-09, 2008), it is required that the administrative decision that is the subject of the appeal be attached to the petition aimed at canceling it, under penalty of non-acceptance before the administrative courts unless there is a justifiable impediment, and the same applies before the Council of State (Article 819 & Article 904).

4.1.1. Definition of the administrative decision

The Algerian legislator has not provided a precise definition of administrative decisions, and therefore the task of defining administrative decisions is left to judicial and jurisprudential interpretation (Labad, 2006).

4.1.1.1. The Judicial Definition of the Administrative Decision:

The Egyptian administrative judiciary has offered numerous interpretations of the administrative decision, unlike its French counterparts, and it has been conventionally termed

the final administrative decision according to the provisions of the Egyptian State Council.

The Supreme Administrative Court defined an administrative decision as: "The competent administrative authority's expression, in the form required by law, of its binding will, by virtue of its powers under laws and regulations, with the intention of producing a specific legal effect that is possible or permissible under the law, in pursuit of the public interest" (Bassiouni Abdullah, 1993, p. 128).

Therefore, this definition came closest to the definition of an administrative decision with the addition of the phrase "creating a legal effect" and one of the characteristics of an administrative decision is creating a legal effect, either by establishing, amending, or cancelling it.

4.1.1.2. The jurisprudential definition of an administrative decision

Rivero defined it as: "An executive decision is the act through which the administration uses its authority unilaterally to change legal situations". (Labad, 2006, p. 236)

Awabdi believes that the administrative decision is a unilateral legal act issued by the competent administrative authorities and by their unilateral will, with the intention of creating and generating legal effects by creating, amending or abolishing legal rights and duties, within the scope of the prevailing legitimacy in the state (Awabdi, 1984).

It should be noted that in order for an administrative decision to be subject to annulment appeal, one of its pillars must be defective. Additionaly, the administrative decision must be an executive act that causes harm in itself. This means that the administrative decision that is subject to annulment appeal must cause harm, such as a decision to dismiss an employee, for example.

The French administrative law requires that, in order to file a lawsuit to annul an administrative decision, it must necessarily result in harm to the plaintiff. Public law scholars in France consider that harm comprises two essential elements: the creation of legal consequences and the fact that the decision

causes harm to the plaintiff (Zammouch, 2011-2012).This is what the Administrative Chamber of the Supreme Court indicated.

The administrative decision in terms of lawsuit must have an executive aspect on the one hand, and cause harm in itself on the other. This is what is deduced from the case of "Chendri Rabah" against "the Governor of TiziOuzou Province".

The following was stated in the decision:

"Whereas the instruction indicates that the Governor of TiziOuzou Province, a highly competent administrative authority is the author of the decision, and that the decision itself causes harm to the plaintiff. These two criteria are sufficient to give the contested decision an administrative character"(Khaloufi, 2001, p. 36).

5. Requirements relating to the plaintiff

The Algerian legislator has organized these conditions in the Code of Civil and Administrative Procedure, especially with regard to Article 13 thereof. As for the condition of capacity in Article 64, he made it a condition for the validity of the procedures, and its absence leads to the invalidity of the procedures. Accordingly, the condition of standing and the condition of interest are addressed.

5.1. The condition of standing

The initiation of a lawsuit to annul an administrative decision must be initiated by someone with standing, ie; the right holder (the plaintiff), is the one who exercises the right in the lawsuit that is filed with a request to establish or protect this substantive right. (Freija, 2011)

The legal basis for the condition of standing is Article 13 of the Civil and Administrative Procedures Law. Standing is also considered an important condition for accepting a lawsuit to annul an administrative decision. It is a necessary and essential condition for accepting it. If it is absent, then the annulment lawsuit is inadmissible, and the courts are prohibited from proceeding with the case, considering it, addressing it, examining its subject matter, and issuing a ruling on it.

It should be noted that there is an opinion that says that direct personal interest is expressed by the term "position" and another opinion that differentiates between direct personal interest on the grounds that there are cases in which the lawsuit is filed not by the person entitled to it, but by someone who stands in his legal place, such as a guardian or executor.

The term “position” refers to the direct personal interest, meaning that the plaintiff is the owner of the right or legal status that is to be protected (Boudersa, 2006). The term “position” refers to the person’s authority to carry out judicial proceedings, whether by himself or through his legal representative (Al-Aish, 2009).

There is a school of thought in jurisprudence that believes that the capacity is combined with the interest in litigation, such that the person with an interest in litigation is the same person with an interest in it, and this is in accordance with a traditional judicial rule that states: “The plaintiff has an interest, and consequently, he has the capacity to litigate”.

However, in some cases the interest is separate from the capacity, so the guardian of the incapacitated person, or the guardian of the minor, has the capacity to represent him in filing the lawsuit, even if there is no interest in that (Salami, 2009–2010). This is stipulated in Article 13 of the amended and supplemented Code of Civil and Administrative Procedure, which states: "...and he has an existing or potential interest recognized by law...". Interest is thus considered a condition that must be met by the plaintiff in a lawsuit to annul an administrative decision. Civil law jurisprudence links interest to practical benefit or advantage.

Or, if there is a threatened personal right, the matter is not the same with regard to the interest in an annulment action, as it is not required that the plaintiff in this action have an infringed right or any potential interest. It is sufficient that it be a personal and direct interest to annul the contested decision. The reason for this is that the annulment action differs in its characteristics from an ordinary action in terms of being a real or substantive action.

The dispute therein revolves around the legitimacy of the contested decision itself, and therefore the dispute therein is not related to personal rights but rather to the protection of the principle of legitimacy (Al-Atoum, 2012).

It is recognized as an international legal expression with two unclear aspects. One aspect is that of someone who does not need the protection of the law from resorting to the judiciary, and the other aspect of the privilege is considering it a condition for accepting all of his claims from the judiciary (Al-Shawabkeh, 2012).

In this regard, we note that the interest that justifies accepting a claim for annulment is required to be: personal, direct, actual or potential, material or moral (intellectual), and legitimate (Salami, 2009–2010).

Regarding legal capacity: the Algerian legislator addressed this in Article 64 of the amended and supplemented Code of Civil and Administrative Procedure, which stipulated that: "The cases of invalidity of non-judicial contracts and procedures, in terms of their subject matter, are exhaustively defined as follows:

1- Lack of legal capacity of the litigants,

2- Lack of legal capacity or authorization of the representative of the natural or legal person; an objective condition included in the plea of nullity. If it is lacking with respect to the litigants or the representative of the natural or legal person, this leads to nullity. The judge also raises the issue of lack of legal capacity automatically (Article 65).

Some believe that the legislator was correct when he excluded eligibility from the circle of conditions for accepting the lawsuit, and this is due to reasons including that eligibility is in an unstable situation that may be available at the time of filing the lawsuit (Abdel Rahman, 2009).

Legal capacity for a natural person is established for every person who has reached the age of 19 and is of sound mind, as anyone who has reached the age of majority and has not been declared legally incompetent is considered to have full legal capacity, according to the provisions of the Civil Code. As for

legal entities, they enjoy legal capacity in accordance with Article 50 of the Civil Code.

The founding law of public administrative institutions also specifies its legal representative before the courts (the Director General) (Salami, 2009–2010).

Article 828 of the amended and supplemented Code of Civil and Administrative Procedure refers to this, stipulating that: "Subject to special provisions, when the State, Wilaya, Municipality, or Public Institution of an Administrative Nature is a party to the lawsuit as plaintiff or defendant, it shall be represented by the Minister concerned, the Wali, or the President of the Municipal People's Assembly, respectively".

The legal representative for an institution of an administrative nature. The head of the municipal council has the authority to represent the municipality before the courts (Article 82) and the governor represents the province before the courts (Article 106).

5.2. The requirement of prior administrative appeal

Accordingly, the meaning of prior administrative appeal will be explained, and its application under the amended and supplemented Code of Civil and Administrative Procedure will be discussed. An administrative appeal is an administrative mechanism available to those affected by an administrative decision. They submit it to the administrative body that issued the decision, appealing to the administration.

By reconsidering its decision that harmed his legal standing, it amends or withdraws the decision. The prior appeal constitutes a manifestation of the judicial administration and a remnant of the era of the minister-judge. In administrative appeals, we distinguish between presidential appeals and those of a provincial nature. A presidential appeal is submitted to the authority that is superior to the body that issued the decision (Al-Wakil, 2007).

As for the governmental grievance, it represents in most legal and procedural systems the exceptional way, according to which the interested party is required to submit the grievance to the same administrative body that issued the decision (Boudiaf, 2007).

One of the advantages of prior administrative appeal is that it allows the administration to monitor its work by identifying shortcomings and deficiencies in its administrative decisions. Thus, administrative appeal allows the administration to discover flaws and deficiencies in the administrative structure and is considered a means of resolving disputes in their early stages.

Moreover, in the easiest way, without resorting to the judiciary and without financial expenses. It also allows for an exchange of views between the complainant and the administrative body, and for the administration to show its position in the event of accepting the complaint, even if this results in withdrawing a decision it issued (Freija, 2011). As for the disadvantages of prior administrative appeal, it leads to ignorance of general and specific deadlines (Al-Wakil, 2007).

The lack of response from the administration, which preferred to remain silent rather than respond so as not to review its decision, and the continued enforcement of the decision despite the grievance, embodying the principle of priority. These defects deprive the administrative grievance of its value and may have influenced the legislator in the amended and supplemented Code of Civil and Administrative Procedures, which changed its nature from mandatory to optional (Bouhamida, 2011).

Furthermore, with reference to Article 830 of the amended and supplemented Code of Civil and Administrative Procedure, which stipulates that: "The person concerned by the administrative decision may submit a grievance to the administrative body that issued the decision within the period stipulated in Article 829 above...". Here, it becomes clear that the administrative grievance has become an optional procedure before the various administrative judicial bodies. This is what is

deduced from the phrase "may". The prior administrative grievance is proven, based on the text of the above article, by all written means, and is attached to the petition before the competent administrative judicial authorities, from which it is clear to us that the legislator has expanded the means of proof related to the grievance. However, there are special texts that considered the condition of prior administrative grievance to be mandatory (Bouhamida, 2011).

It is worth noting that the Algerian legislator did not stipulate a specific form for prior administrative appeals, but rather that they must be clear and unambiguous. We refer to the established practice of Algerian administrative jurisprudence regarding administrative appeals, namely that they must be clear in their content, date, and number, as demonstrated by the decision issued in the case of (the company) against (the Fraud Suppression Inspectorate of the Ministry of Commerce) (State Council Decision, 2006).

The decision stated the following: “It is established in jurisprudence and legal practice that this grievance must be clear in its meaning and content, indicating the date and number of the decision being grieved, the issuing authority, and the purpose for which the grievant is appealing to the administration. These are also the data that the appellant must clarify in the event of resorting later to filing a lawsuit for annulment…”.

5.3. The time limit clause

The time limit clause is addressed by defining it and specifying the start date of the deadline.

- Definition of the deadline: The deadline refers to the legally specified time period for filing an administrative lawsuit, which must be observed and accepted before the competent judicial authority (Bouhamida, 2011).

The rationale behind setting this deadline is to ensure the stability of legal situations so that the door to challenging administrative decisions is not left open indefinitely.

It also ensures adequate protection for the rights acquired from these decisions, so that the lawsuit becomes inadmissible if this period expires without it being filed, as well as the decisive and serious effect of the annulment lawsuit on the administrative decisions that are ruled to be annulled.

Furthermore, the time limit requirement derives its legal basis from the Code of Civil and Administrative Procedure, as well as from specific provisions (Bisyuni, 1993).

5.3.1. Before administrative courts

Article 829 of the Code of Civil and Administrative Procedure sets the time limits for filing such cases.

According to Article 830 of the Code of Civil and Administrative Procedure, personal notification of an individual decision and publication of collective or regulatory decisions have a four-month deadline. If a party files a prior grievance, the silence of the administrative body before which the grievance is filed regarding a response within two months is considered a rejection. If the administrative body remains silent, the complainant benefits from a period of two months to file a judicial appeal, which runs from the date of the expiry of the two-month period.

If the administrative body responds within the allotted time, a period of two months begins from the date of notification of the rejection. It is also proven that the grievance was filed with the administrative body by all written means and attached to the petition.

5.3.2. Before administrative appellate courts

This is what is included in Article 900 bis 1 of the amended and supplemented Code of Civil and Administrative Procedure, which states that the provisions of Articles 815 to 828 of the Code of Civil and Administrative Procedure are applied before the administrative judicial authorities for appeal. This means that they are the same procedures followed before the administrative courts.

5.3.3. Before the Council of State

Referring to Article 907 of the Code of Civil and Administrative Procedure, which stipulates that: "When the Council decides as a first and final instance, the provisions relating to time limits stipulated in Articles 829 to 832 above shall apply". This means that the legislator has referred the provisions relating to time limits for appeals before the Council of State to the provisions relating to time limits.

Before the administrative courts, the legislator has unified the deadlines, whether it is related to filing a lawsuit to annul an administrative decision issued by the local authorities or a decision issued by the central authorities. It should be noted in this regard that the appeal period stipulated in Article 829 is not invoked unless it is mentioned in the notification of the appealed decision (Article 831).

As for the special texts that include the time limit condition, the decision to refuse a license for a group to hold a founding conference is subject to appeal before the State Council within thirty (30) days from the date of notification, and this is what was stipulated in Article 21 of the Political Parties Law (Organic Law No. 12-04, 2012).

As for the start of the deadline, we distinguish between an individual decision and a regulatory decision. Notification is required for an individual decision, and publication is required for a regulatory decision. This is what was indicated in Article 829 of the Civil and Administrative Procedures Law.

In the context of individual decision, the time limit begins from the date the person concerned is notified of the administrative decision. Notification means officially informing the person concerned of the decision with a copy of the decision and in the manner specified by law. It is characterized by being actual and established knowledge for the person notified. The Supreme Court in Egypt defined it as: “The method by which the administrative authority transmits the administrative decision to a specific individual or individuals from the public” (Boudiaf, 2007).

In the same wording, Decree 88-131, which regulates the relationship between the administration and citizens, affirmed that no decision of an individual nature can be used against the citizen concerned by the decision unless he has been legally notified of it (Article 35).

As for regulatory decisions, these are made public through publication, which is the method of informing the public about collective and regulatory decisions. This is done in the Official Gazette (Addou, 2012). However, decisions issued by local authorities are subject to more flexible and diverse publication procedures, thus ensuring that citizens are more informed about them (Labad, 2006), since it is incumbent upon them, the administration must inform citizens of the measures and regulations and use and develop any appropriate document for publication and information. Likewise, the administration must publish instructions, circulars, memoranda and opinions (Article 08). If they are not published in the Official Gazette, the administration must publish them in the official bulletin of the administration concerned (Article 09).

Article 829 of the Code of Civil and Administrative Procedure clearly demonstrates that the legislator did not adopt the theory of certain knowledge, as evidenced by the requirement to notify an individual administrative decision or, conversely, to begin notification from the date of publication of a collective administrative decision. The time limit requirement is considered a matter of public order, specifically a condition for accepting a claim to annul an administrative decision, and the judge may raise this issue sua sponte. Even if the opponents do not raise it, this is to protect the principle of stability of administrative decisions, to ensure their effectiveness, and to achieve the public interest (Adel Bouamran, 2010).

Concerning the cases of interruption of the appeal deadlines, they are outlined in Article 832. In the context of appealing before an incompetent judicial body, the Council of State ruled on this matter in the case of (B, S) against (the Minister-Governor of Algiers Province) (State Council Decision , State Council Decision No. 4945 dated 17/12/2002, 2003, p.

99), stating: "...whereas, in this case, the deadline that is taken into consideration is that of filing the first lawsuit, i.e., the lawsuit that led to the decision issued on 09/09/1997, which rejected the lawsuit on procedural grounds due to its improper filing, because the appellant corrected this improper filing by filing another lawsuit within a reasonable timeframe. Therefore, the deadline for filing the second lawsuit is reasonable, in light of the judicial precedent of the Administrative Chamber of the Supreme Court.

The case remains before the judicial authorities for the entire duration of the lawsuit filed before the non-competent judicial authority, even if it is transferred to the appeal, provided that the lawsuit is filed before the non-competent judicial authority within the applicable appeal period.

This rule, “règle juridique”, which was established by the jurisprudence of the Administrative Chamber of the Supreme Court and then the Council of State, concerns the issue of time limits when filing a lawsuit before an incompetent judicial body, the reason for requesting judicial assistance, the death of the plaintiff or a change in his legal capacity, as well as force majeure or a sudden accident.

5.4. Conditions Required for the Opening Petition

The following articles outline the conditions required for the opening petition to annul an administrative decision: Articles 15, 815 to 827, and 904 to 906 of the Code of Civil and Administrative Procedure. One of the conditions is that the petition be in a written form (Article 14). As for the information that must be included in the opening statement of claim, otherwise the case will be deemed inadmissible, it is as follows:

- The judicial body before which the case is filed,
- The name, surname, and address of the plaintiff,
- The name, surname, and address of the defendant, or, if no known address is available, their last known address.
- A statement of the name and nature of the legal entity, its registered office, and the capacity of its legal or contractual representative.

5.4.1. The absence of a parallel lawsuit

For a lawsuit to be accepted to annul an administrative decision, there must be no other parallel lawsuit that achieves the same advantages as the annulment lawsuit. Therefore, an annulment lawsuit is rejected on procedural grounds if the legislator has established a method for challenging the administrative decision. The French judiciary has held that if a lawsuit exists to challenge the administrative decision, it achieves the same advantages.

The results achieved by the annulment action make the latter unacceptable in form, and the condition of the absence of a parallel action for accepting an action for abuse of power is due to the ruling of the French Council of State issued on 12/26/1862. The Council refused to accept the annulment action on the grounds of a parallel action before the plaintiff that achieves for him the same advantages as the annulment action (Freija, 2011).

The Code of Civil and Administrative Procedure makes no mention whatsoever of the condition of the absence of a parallel action; therefore, this condition is no longer necessary for the admissibility of an annulment action. Hence, the practical application of this condition is rejected due to its illogical nature.

The French Council of State itself began to practically abandon its requirement that there be no other legal action that achieves the same results as an annulment action, and instead began to use the theory of voidable decisions (Addou, 2012).

CONCLUSION

Based on the foregoing discussion of the topic, "The Role of Judicial Interpretation in Establishing Administrative Law Rules", the first section addressed the concept of administrative judicial interpretation. The second section explored the manifestations and effects of administrative judicial interpretation on the establishment of legal rules. And the last section addresses the conditions for filing an annulment lawsuit.

The conditions for accepting an annulment lawsuit under the Civil and Administrative Procedure Code were examined, revealing that the legal requirements for filing an annulment lawsuit include the existence of a prior administrative decision. The conditions that must be met by the decision being challenged were also discussed.

The conditions relating to the plaintiff, namely standing and interest, are stipulated in Article 13 of the Code of Civil and Administrative Procedure. As for legal capacity, Article 64 of the Code of Civil and Administrative Procedure indicates that the legislator considers it a condition for the validity of the proceedings.

The Code of Civil and Administrative Procedure allows us to conclude that administrative appeals are now permissible, except in cases specifically excluded by law, such as tax disputes. Respecting the deadlines for appeal is also crucial. In this regard, we note that the legislator has standardized the deadlines for filing a lawsuit to annul an administrative decision, whether issued by local authorities or other bodies.

As for the condition of the absence of a parallel action, it is clear from the Code of Civil and Administrative Procedure that the legislator has abandoned the condition of the absence of a parallel action.

Furthermore, it should be noted that, with reference to the Algerian Constitution as amended in 2020, the Constitution refers to the administrative judge to apply legal rules in their broadest sense. The constitutional rule establishes general constitutional principles that the administrative judge and the laws cannot contravene. For example, it states:

Public property belongs to the nation as a whole. National property is defined by law, and expropriation can only occur within the framework of the law.

Finally, we propose the following recommendations:

- Establishing a network of judges specializing in administrative law.
- Publishing various administrative court decisions to facilitate their use.

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