

The philosophy of making the rules of administrative law between privacy and objectivity

Zeghichi Mostefa^{1*}, Ziouche Abdraouf²

¹ University Center Sheikh Amoud Ben Mokhtar-Ilizi-Algeria,
mostefa.zeghichi@cuillizi.dz,

² University Center Sheikh Amoud Ben Mokhtar-Ilizi-Algeria,
ziouche.abderaouf@cuillizi.dz

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Abstract:

The importance of administrative law is illustrated by the distinction between relations to which the administration is a party enjoying the privileges of public authority and those which are not defined by private law. The study relied on the analytical and descriptive approach to discuss and address the problem: **How can the rules of administrative law be made while adhering to privacy and objectivity?** This is what this study answers, which aims to highlight the specificity and objectivity of administrative law by identifying the most important legal rules applicable to public administration in the exercise of its powers, and knowing the judicial authority competent to adjudicate administrative disputes. The study concluded that the emergence of the rules of administrative law is linked to the principle of privacy and objectivity, which makes it a distinct law, in addition to the special nature of its disputes, which makes it subject to a competent judiciary, which is the administrative judiciary.

Keywords: administrative law, public utility, privileges of public authority, privacy and objectivity.

* Zeghichi Mostefa, Email: mostefa.zeghichi@cuillizi.dz

1. Introduction :

Law as a social science has emerged and developed due to the multiplicity of social relations constituting society, and in the light of this fact the branches of law have emerged that are governed by special and distinct provisions (Al-Jarf, 1970, pp. 7-8). The law is generally divided into two groups, the public law group and the private law group*, each group containing several branches. The public law is concerned with regulating the relations in which the state or one of its bodies enters as the holder of authority aimed at achieving the public interest, while the law on regulating relations between individuals or non-governmental bodies is concerned with those relations between individuals and government bodies that do not enter into this relationship as the holder of authority (Al-Helu, 1996, pp. 6-7), that is, whether all persons are ordinary persons or some of them have sovereignty but do not enter into the legal relationship as such.

Perhaps the most important form of making the administrative legal rule is the one in which the administrative judge finds himself obligated to fill the deficiency in the rules of administrative law in finding solutions to the issues before him, so he uses the general legal principles that he deduces from the legal rules, so he extracts common rules and makes careful extrapolation of legal texts and analysis of the philosophy of texts, using all means and applying them to all as the juices of the legal system and legal philosophy in that state, taking into account the special nature of the activity of the state, that is, the general legal principle is the inequality of the state with ordinary citizens because of the burdens it bears that require preference over all. However, sometimes the limited culture of judges and workers in the government sector and their insufficient knowledge of legal texts may have a negative application of administrative law except to the extent explicitly stipulated by the legislator in the law, which reduces their efficiency and effectiveness. (Ali Hassan, 2014, p. 14)

This broad scope granted to the administrative judge in finding appropriate solutions to the issues presented to him, which in the future become rules and provisions on which he relies in administrative law, may collide with the fact of the very first time, which is the clear ignorance of

* - This issue was addressed by the French jurist "Domat J.domat " between 1625-1698.

these principles by the judges in addition to the administration's ignorance of the legal texts. This is shown by the application of most judges and employees in the administration what is decided by the legal texts without assigning themselves the trouble of researching and highlighting these principles and giving them their value and status.

Administrative law, as a branch of public law, is of great importance because of the increasing interference and development of the state's function in various aspects of life, sensing its responsibility towards members of society, such as providing job opportunities, food, housing, treatment and education... Etc., which resulted in two important results: the inappropriateness of the rules of private law with those relations to which the administration is a party in addition to the existence of administrative relations that are not known by private law, as in the case of expropriation for the public benefit (Al-Helu, 1996, p. 8).

This research paper aims to answer a major problem that arises regarding the philosophy of making the rules of administrative law, which must constitute an integrated process that combines privacy and objectivity to find innovative solutions to the issues presented before the administrative judge or the administrative man and put them into practice to become applicable rules, and distinguish administrative law from other branches of law.

Based on the above, the following problem can be raised: **How can the rules of administrative law be made while respecting privacy and objectivity?**

To answer this problem, we suggest that we start this paper **with a first axis** on the conceptual framework of administrative law, and then **a second axis** related to the philosophy of making the rules of administrative law.

2. Concept of administrative law

The functions of the state are numerous and its fields of intervention vary in order to meet the needs of society, which makes the administration enter into multiple relations that may not often be within the subjects of private law. Therefore, it has become necessary to have special and distinct legal rules that differ from those to which private law persons are subject.

1.2 Administrative Law

The appearance of the state as a public authority in its relations with individuals and its submission to distinct legal rules that differ from those to which private law persons are subject, is subject to a separate law called administrative law, as is the case in France and some countries that follow it,

and can be as exceptions to the law of general application regardless of the parties to the legal relationship, and this is reflected in the legal systems of Anglo-Saxon countries such as England and the United States of America, where the administration is subject to the same laws that apply to individuals (Al-Helu, 1996, pp. 7-8).

Accordingly, two intellectual trends emerged that discussed the concept of administrative law, and reflected different views on the nature of administrative law and its relationship with other legal systems. The first trend defines administrative law as those legal rules that are different from the rules of private law and that regulate public administration as a sovereign cannot be equal to individuals, in terms of its activity, its conduct and the resulting disputes.

First: Expanded definition of administrative law: The owners of this trend consider that administrative law is a set of legal rules that govern and regulate public administration in various aspects such as its internal organization, activity, and management of its funds, in addition to dealing with disputes that arise as a result of those activities and (Boudiaf, 2017, p. 17) administrative decisions. In the sense that administrative law is a set of legal rules that govern the activity and behavior of public administration, whether these legal rules belong to public law or belong to private law rules.

The holders of this trend base their definition of administrative law on the principle of equality between public administration and individuals, so they consider that administrative law is only a branch of law that controls administrative activity, without regard to those legal rules related to the activity of administrative authorities, whether they come from public law or private law, and therefore the public administration must be subject to the same rules as individuals.

According to the Anglo-Saxon trend, the work of the administration should be subject to legal rules and controls similar to those to which individuals are subject in private law. Therefore, disputes arising in this regard are subject to the same rules and procedures to which individuals are subject, and the judicial authority in these disputes is the ordinary judiciary. This is in accordance with the principle (Boudiaf, 2017, p. 18) of equality on the one hand and to prevent the domination and arbitrariness of the administration on the other hand.

Second: The narrow definition of administrative law: Administrative law can be defined according to the narrow concept by focusing on those legal rules that govern public administration and regulate its functioning, given its powers and authorities as the holder of authority enjoying the

privileges of public authority in the (Boudiaf, 2017, p. 19) sense that they are special rules distinct from those that apply to individuals. This definition highlights the distinctive nature of administrative law and its role in regulating the relationship between the administration and citizens and determining the powers and limits of the administration

This necessitates the submission of public administration disputes that appear in the appearance of public authority to an independent judiciary called the administrative judiciary, where the supporters of this trend (the Latin system) believe that the rules of administrative law are characterized by their special nature that regulates the work of the public administration, determines its powers and duties, and establishes the controls and procedures that must be followed in the implementation of its policies and programs.

Therefore, administrative law is characterized by special rules unlike those that apply to individuals among themselves in order to preserve the proper functioning of public utilities and to achieve the public interest (Al Bashir, principles of administrative law, 2011, pp. 5-7).

Therefore, it must be said that when the public administration represents the public authority and the management of public facilities and carries out a distinctive activity that involves the use of public funds and aims to achieve a public interest, disputes related to this field must be subject to special legal rules and procedures that differ from those related to individuals, and the competent judicial authority in resolving these disputes is the administrative judiciary and vice versa.

Public administration as a closed functional and legal organizational unit distinct from management in the private, economic and social sector (Nahili, 2011, p. 11), refers us to two main concepts of public administration, where the organic (formal) concept deals with the structure of public administration in its formal aspect, while the objective concept focuses on its functional role in society.

a-The organic concept of public administration: The organic (formal) concept refers to the set of organs, structures and bodies that are subordinate to the executive authority at its various levels, including the public moral entities that constitute the administrative apparatus, its organizations and branches;

b-The objective concept of public administration: The set of activities, functions, services, and works practiced by agencies and bodies to satisfy the needs of the public (Baali, 2002, p. 06)

These two definitions show the relationship between administrative law and public administration, which is manifested in several manifestations:

the theories of public utility and administrative control that form the core of administrative activity, the theories of administrative decisions and administrative contracts that reflect the methods of public administration, the theory of public employee and the theory of public money that represent the means of public administration, and finally the judicial authority that has jurisdiction to adjudicate administrative disputes as well as the most important procedures to be followed (Boudiaf, 2017, pp. 20-21).

In summary, it can be said that administrative law is that branch of internal public law that includes the legal rules that regulate the administrative authorities in the state, including their composition and activity, as these administrative authorities have exceptional rights and privileges in their relations with individuals (Raslan, 1994, p. 05).

2.2 The Origin and Development of Administrative Law in France

The principle of the separation of powers (legislative, executive and judicial) defended by the philosophers of the Enlightenment, especially Montesquieu, is the main reason for the emergence of administrative law, as most jurists attribute the origin of administrative law to France and the ideas and reforms brought about by the French Revolution of 1789 in the face of the monarchy, especially the separation of powers, although it was misinterpreted at the beginning of its application.

First - The situation prevailing in France before the French Revolution: The conditions prevailing in the period of absolute monarchy in France were considered to be that there was no judicial accountability of the state or government officials, and the king controlled everything, including transactions with individuals, and these transactions were subject to civil law, and this was among the reasons that led to the emergence of administrative law.

Despite the existence of a hierarchical organization of power in the state, where the supreme authority is the one that possesses the highest powers and controls the rest of the bodies and authorities, this power was relatively theoretical, as the political, administrative and judicial functions were highly intertwined. In addition, there were no specific concepts that allowed the identification of a manifestation of administrative law uniformly, and there was insufficient homogeneity in this context (Braud, 2020, pp. 23-25).

Precisely at this period, parliaments in France during that period were representative of the king and deputized for him in his judicial functions, and

they were playing a role in controlling the administration and interfering in its affairs, which provoked criticism by the men of the French Revolution who were seeking to separate the powers and achieve the independence of the administration from the judiciary, thus preventing judicial courts "parliaments" from intervening in administrative disputes (Al-Tamawi, 1979, p. 06).

What distinguished this period was the adoption by the French revolutionaries of a rigid interpretation of legal texts under the cover of the separation of powers, to avoid any control over the legitimacy of administrative work. Therefore, the work of the administration and its employees cannot be monitored or appreciated by the judiciary, and the administration was the concerned body without the intervention of other parties, in order to protect the revolutionary administration, so the administration was the opponent, which is the ruling.

Second - The development of administrative law in France after the revolution: The French Revolution came in response to the prevailing conditions before the revolution, led by the structure of the government and the authorities that were concentrated in the hands of the King. Thus, the development of administrative law after the revolution has known three basic stages that can be summarized as follows:

A- The stage of judicial administration: Among the reforms and ideas that the French Revolution came up with after the strong criticism of the parliamentary courts because of their control over the administration, their interference in its affairs, and their obstruction of any reform movement. In application of the principle of separation of powers, the revolutionaries prevented the parliamentary courts from interfering in the work of the administration. In return, they gave the administration the right to adjudicate in the disputes that relate to it. The so-called judicial administration appeared.

This allowed the administration to be granted the authority to adjudicate disputes related to it, without the intervention of the parliamentary courts, in order to achieve the independence of the administration and avoid the interference of the judicial courts in the decisions of the administration. The administrators have judicial powers in resolving disputes involving the administration, while at the same time reflecting the desire of the revolutionaries to achieve greater effectiveness of reforms and avoid delays in adjudicating cases resulting from overlapping powers.

In August 1790*, the Judicial Organization Law was passed, which abolished judicial courts (parliaments), prevented the ordinary judiciary from hearing disputes to which the administration is a party, and granted this jurisdiction to administrative bodies, allowing individuals to resort to the administration itself to complain to it in the event of disagreements or disputes related to the administration's business (Radi, 2008, p. 06). The stage of "administration judiciaire" or minister judiciaire was a preliminary stage to the establishment of the French Council of State.

B- The stage of the restricted or reserved judiciary (the stage of establishing the Council of State): Law 16-24 August 1790 has resulted in many problems at the practical level, as after the establishment of the so-called judicial administration, the latter became an opponent and a referee at the same time, which made the revolutionaries take an additional step to improve the judicial system. On September 12, 1797, what is known as the "Council of State" was established, which is an independent judicial body under the supervision and guidance of the consul.

This measure was not only to improve the separation of powers but also to ensure the independence of the Council of State from the administration, and the ongoing relationship between the Council of State and the administration in addition to his previous experience as an advisor to the administration, was enhancing his understanding of administrative issues and helping to achieve a balance of powers.

In general, the Council of State had general powers to settle administrative disputes and to accept appeals against the rulings of provincial councils that were subject to appeal before it. It also had the right to establish the principles and provisions of administrative law, in addition to providing its consultations in administrative matters. However, its functions were advisory only and were subject to the control and approval of the consul due to his experience with the nature of administrative work that he acquired through his role as an advisor to the administration (Radi, 2008, p. 06).

The establishment of dispute settlement bodies (regional councils and the Council of State) in the eighth year after the revolution was in fact similar to the courts of parliaments, because these bodies did not benefit from any

* - This law established a strict separation between administrative and judicial authorities.

independence, but merely proposed to the consul, the minister and the head of state a solution to the dispute, and this is how the revolutionary interpretation of the principle of separation of powers led to the exact opposite effect of that desired "The judge was performing the work of the administration in full (Braud, 2020, pp. 23-25)."

C- The stage of the delegated judiciary: On May 24, 1872, the law granting the French Council of State the competence to finalize administrative disputes and the establishment of the Court of Dispute Judges allowed the existence of judicial duplication and resolved the difficulties of attribution of jurisdiction between the two jurisdictions on 24 May 1872 (Council of State, 1889).

As a result of this situation, on December 13, 1889, the Council of State accepted and decided a lawsuit filed by an individual directly without going through the administration, known as the "Cadot" case, which gave the Council of State jurisdiction to adjudicate administrative disputes (Radi, 2008, pp. 11-16).

It should be noted that prior to the decision of the Council of State in the "Cadot" case, the French Court of Dispute had confirmed the competence of the administrative judiciary to adjudicate disputes related to the administration, in the Blanco decision of February 8, 1873 (Competence-Responsibility, 1873), and this reflects the development of the judicial system in France towards establishing the responsibility of the state for damages caused by public utilities, as well as assigning jurisdiction to the administrative judiciary in relation to those disputes to which the administration is a party.

Later, with the accumulation of cases before the Council of State, the legislator more precisely defined the powers of the Council, through the decree issued on September 30, 1953, by which the powers of the Council of State were limited, and the general powers in administrative disputes were transferred to the administrative courts, formerly known as "provincial councils".

These reforms contributed to the improvement and development of the administrative judicial system in France, strengthening the role of the Conseil d 'Etat as a judge in administrative disputes, by establishing appellate administrative courts and expanding the scope of cassation appeal before the Conseil d 'Etat (Competence-Responsibility, 1873).

These reforms continued with the issuance of a series of decrees aimed at improving the administrative justice system. On July 30, 1963, four

decrees were issued dealing with the system of employees of the Council and the organization of its internal activity. However, this regulation was later amended by three other decrees in August 1975, a decree in January 1980, and another in December 1987, which established the principles of administrative law and its confirmation by the Council of State. It contributed to establishing the rules and principles of administrative law distinct from the rules of private law, and devising appropriate solutions for the requirements of the proper functioning of public administration.

3. Administrative Law Rules Industry Philosophy

The philosophy of making the rules of administrative law must range from the specificity that makes it a special law independent of its rules and jurisprudence different from the rest of the other branches of law and the objectivity that makes it a applicable law and finding practical solutions to various issues.

3.1 The specificity of administrative law: Researching the specificity of administrative law necessarily requires researching the most important criteria on which this law is based to determine the legal rules applicable to the public administration in the exercise of its powers and authorities (the applicable law) on the one hand, and knowing the competent judicial authority to adjudicate administrative disputes (the competent judiciary) on the other hand (Baali, 2002, p. 19).

Jurisprudence and the judiciary have adopted three basic criteria for understanding the scope and application of administrative law, the first criterion relates to the public utility, the second criterion relates to public authority, and the third criterion is called the mixed criterion. These criteria allow understanding the basis for the application of administrative law, determining the relationship between public bodies and other parties, and knowing the judiciary competent to adjudicate disputes arising from those relations (Al Bashir, principles of administrative law, 2011, p. 13).

First - The criterion of public authority: "Maurice Horio" (1856-1929) defines public authority through the purpose of the existence of the latter as a privilege granted to the public administration: "The public interest is that work that must be achieved by the public administration, and the public authority is the means of achieving that work." Public authority in this sense expresses and justifies the special and distinct nature of the means granted to the public administration in order to achieve its objectives, such as: imposing

its unilateral will, modifying contracts unilaterally, expropriating property for the public interest (Kada & Martial, 2014, pp. 404-405) .

Haurio, also views public power as an objective authority, organized and independent of the ruler, granted directly or indirectly by the sovereign, that is, by the nation, governed by controls and restrictions for the purpose of achieving legitimate goals by means of public utilities (Haurio, 1893, p. 236). Thus, where there are the rights of individuals, there are also the rights of the public authority, ensuring the conduct of the public interest, and considering that administrative law is originally a democratic law that emerged after the French Revolution, based on three basic principles: legitimacy, responsibility and public authority, administrative law grants to public authorities in the framework of carrying out their activities, if necessary, very broad privileges in order to achieve the public interest (Vieille, 2001, p. 81), unlike individuals who seek to achieve private interests.

Therefore, administrative law during the nineteenth century was mainly based on the concept of public authority, and the difference between the acts of authority and the acts of management was one of the most important concepts dealt with by jurists at the time.

He considered that the work of the authority is the axis, basis, and criterion of the administrative system, as it is subject to exceptional provisions that are unusual and customary in private law relations. These exceptional provisions are represented in the rules of administrative law, which refer the adjudication of disputes arising from them to the administrative judiciary (Haurio, 1893, pp. 189-190).

In the same way, the jurist “Berthelemy” limited the work of the authority to those actions that involve the use of the legal authority vested in the administration, such as the implementation of public policies. What distinguishes these actions is that they are subject to the rules of the public authority and are often outside the scope of private law and fall within the scope of public law. As for the management actions that the public administration sometimes comes under, they are not subject to the administrative system because they are subject to ordinary law, and the ordinary judiciary has jurisdiction over disputes arising the reform (Baali, 2002, p. 20).

Therefore, it may be necessary for the administrative judiciary to deal with these issues with flexibility and understanding of the full administrative context, and may require the continuous development and improvement of legislation and legal systems to expand the scope of administrative law and facilitate its effective and fair application.

However, what is taken for this criterion is the fact that the distinction between the work of the authority and the work of management may be somewhat narrow and may limit the scope of administrative law and the competencies of the administrative judiciary, which causes the exclusion of some important administrative activities such as administrative contracts and material management work from the scope of administrative law. In addition, this criterion can be difficult to apply in practice due to the complexity of administrative relations and the intertwining between the work of the authority and the work of management (Radi, 2008, pp. 28-37), in addition to the prevailing misconception regarding the concept of public authority, which was centered on domination, command and prohibition, and then the duplication that the state appears in terms of being subject to public law when exercising the privileges of public authority, and also subject to private law in the event that it waives those privileges (Al-Helu, 1996, p. 71).

Second - The criterion of the public facility: The concept of the public facility has been defined differently in the definition, only “**Haurio**”. The public facility is: "A public organization that carries out from the authorities and competencies what ensures it to carry out a service that it provides to the public on a regular and steady basis." On the contrary, we find that the jurist "**Duguy**" defines the public facility by saying: "It is every activity that must be guaranteed and carried out by the rulers, because carrying out this activity is indispensable for achieving social solidarity and its development, as it can be achieved to the fullest extent only through the intervention of the ruling authority." This divergence in definitions on the concept of public utility created a division in the views of jurists, while the French Council of State tended to adopt both material and objective meanings (Dabbous, Cairo, pp. 20-21).

Based on the above, it can be said that the public facility is "every project that is created by the public administration and organized and managed by itself or through supervision for the purpose of achieving the public interest (Layla, 1968, p. 28)." Through this definition, the components of the public utility can be limited to the following: The goal of the public utility is to meet the different and multiple needs of society, the public service that individuals benefit from is provided by the state through its agencies, with the possibility of private intervention (partnership between the public sector and the private sector), the public utility is a project consisting of a group of people and material means operating in an organized framework for the achievement of the public interest (Nahili, 2011, p. 71);

As for the characteristics of the public utility, they are: **permanence and continuity**: the public service does not stop and does not stop with people stopping or going, **equality**: everyone benefits from public services on an equal footing, **development**: it develops with the development of aspects of life, **providing the public interest**: the purpose of the public utility requires that the public interest be put before the private interest, and finally the public utility does not seek to make a profit (Nahili, 2011, p. 71).

The actual beginning of this criterion appeared only with the decision of "Blanco" issued by the French Court of Dispute, and then the criterion began to be confirmed little by little until the administrative judiciary took over through the frequent rulings of the French Council of State and the rulings of the French Court of Dispute*, through which the judiciary recognized that the public facilities organized by the public administration, the links and relations established by these facilities in addition to the people who work in them and the rights and obligations generated from those relations that cannot be regulated according to the same principles and provisions of the Civil Code, and that the responsibility arising from those relations carried out by its employees in the event of error or negligence is not a personal responsibility subject to the rules of the Civil Code, but rather the responsibility of its two facilities - belonging to the public utility -varies according to the nature and importance of each facility (Bidawi, 2016, p. 156).

Although this criterion gained acceptance and support from jurisprudence and the judiciary until administrative law became known as the law of public utilities, so the French administrative judiciary worked to establish principles that suit the activity of public utilities and ensure their regular progress in achieving their objectives. It also determined the scope of application of administrative law and the jurisdiction of the administrative judiciary by reference to the idea of public utilities (Younes, 1996, p. 244), but it received some criticism as a result of the development of administrative activity, where the administration became engaged in activities that are not different in nature from the activities of individuals and used private law

*- In this regard, see the judgment of the Council of State in the Kadut case of December 13, 1889, the judgment of the Court of Dispute in the Fargier case of June 27, 1903, the judgment of the Council of State in the Onge case of February 03, 1911.

methods, so what was termed the "crisis of the public utility" appeared then, represented in:

- The emergence of industrial and commercial public utilities that are subject to the duality of laws between public (administrative) law as public utilities with some powers of public law, and private law with regard to executive aspects, in addition to the emergence of public utilities managed by individuals with public law privileges as they aim to achieve public benefit;

- The inadequacy of this criterion because it is no longer sufficient to determine the scope of application of administrative law and insufficient to determine the jurisdiction of the administrative judiciary because it is characterized by ambiguity, in addition to the difficulty of determining the meaning of the idea of public utility, as the French Council of State has recognized on several occasions its jurisdiction over some disputes and the application of the rules of administrative law to them, without these disputes being related to the activity of a public utility (Assadiq, 2016, p. 75).

- The definition of administrative law as the law of public utilities may be incompatible with some aspects of the administrative activity that is regulated. The administrative law is not limited to the regulation of public utilities, but also includes the regulation of the activities of individuals that are subject to control and the administrative police, which is different from the public utility. In addition, there may be a deficiency in this definition in terms of classifying the economic or professional activities of the administration as not public utilities and not using the means of public law in its activity. However, it aims to achieve public benefit or organize public life (Hannan, 2022, pp. 126-128). Therefore, it may be preferable to use broader criteria or definitions to distinguish activities that are subject to administrative law and to define their scope more precisely and comprehensively.

Thus, no matter how necessary the idea of a public utility as a basis for administrative law, it is not sufficient on its own to determine the scope of application of administrative law, which enabled the emergence of a new standard known as the mixed standard.

Third: The mixed criterion: Each of the two previous criteria - the criterion of public authority and the public utility - proved that neither of them is sufficient to be recognized as the only reliable criterion for determining the field of administrative law and thus the competence of the

administrative judiciary, which made jurisprudence and the modern judiciary rely on adopting the two previous criteria together and merging them into a new criterion called this mixed criterion.

The meaning of this criterion is that the activities of the administration that are subject to the provisions of administrative law, and the administrative judiciary is competent to hear disputes related to them, are those that relate to the management of public facilities on the one hand, and the administration uses the methods and privileges of public authority on the other hand.

The content of this criterion is summarized in combining the two previous criteria (the public facility and the public authority), which means that it is not enough to have only the public facility to apply the jurisdiction of the administrative judiciary, but also requires the use of the public facility for the privileges and means of the public authority, to make the activity subject to administrative law and thus subject to the jurisdiction of the administrative judiciary, because everything related to the activity of the facilities is not subject to administrative law, but is subject to the rules of private law and the ordinary judiciary is competent to consider it. The public facility can also resort to the means of public law and the administrative judiciary is competent in view of its disputes. Therefore, the convening of the jurisdiction of the administrative judiciary is related to a public facility and enjoys in the conduct of its activities the privileges of the public authority without regard to the availability of the public authority element only or the public utility element only (Assadiq, 2016, p. 75).

In summary, it can be said that the philosophy of the privacy of administrative law is clear through the possibility of combining more than one criterion to be the basis for its application. For example, combining the criterion of public utility and the criterion of public authority, it is permissible to say that administrative work subject to administrative law and the jurisdiction of the administrative judiciary must meet the following conditions:

- (a) The work or activity must be related to a public utility, which indicates that it serves the public interest or directly regulates public life.
- (b) The administration must have used exceptional privileges, means and powers other than those used in private law in the organization and implementation of this activity, indicating the use of public authority to achieve the overall objective of the activity.

Thus, the combination of these two criteria, determines the philosophy of the administrative law industry in the aspect of privacy that defines the jurisdiction of the administrative judiciary more accurately and comprehensively, and determines the activities that are subject to this legal and judicial system.

3.2- The objectivity of administrative law: intertwines with the philosophy behind crafting its rules. This objectivity, characteristic of administrative law, manifests in several ways. Firstly, administrative law does not recognize equality between the parties involved in the relationship. Additionally, it draws some of its provisions and principles from private law. Furthermore, some of its rules have no equivalent in private law. Finally, administrative judiciary does not establish judicial precedents (Al Bashir, principles of administrative law, 2011, pp. 20-23), This is evident through:

The failure of administrative law to recognize the equality between the parties to the relationship between the state and the individual is justified by the French legal reality for a number of reasons. The state has a stronger legal status than the individual as a result of the inevitable fact that it can issue the administrative decision of its own will and obliges individuals to fully submit to this decision, while providing guarantees for individuals through the means of grievance, appeal and review before the administrative courts to ensure the provision of justice and protection of their rights.

The reason for this legal superiority of the state over individuals is that the state seeks to achieve the public interest as opposed to individuals who seek private benefits, in addition to making decisions related to the implementation of certain policies aimed at achieving certain political, economic or social goals.

As for the use of civil law by administrative law to derive some of its provisions and principles, despite being a branch of domestic public law, it arises from considerations related to the suitability of those rules for the specific circumstances that the administrative judge may deal with. When the administrative judge believes that the use of private law rules is necessary because those rules may better align with certain aspects of public law, and these specific rules can contribute to resolving complex disputes that may arise in the context of administrative law, this interaction between administrative law and private law rules highlights the diversity and

flexibility in the approach of administrative judiciary. It allows the administrative judge to use appropriate and suitable legal tools to resolve various disputes brought before them.

The multiple relations governed by the administrative law express the functions and activities carried out by the public administration in general, as the relationship between the administration and employees, which is governed by the laws and regulations governing the employment of employees, work conditions, salaries and benefits, as well as the procedures for promotion and dismissal from work, may be the relationship between the administration and the public (beneficiaries) and includes the provision of public services to the beneficiaries of administrative facilities effectively and continuously and ensuring the quality of services and materials provided, in addition to those administrative decisions that have a direct relationship with citizens, and the relationship between the administration and other parties can also include signing contracts with suppliers and contractors and concluding public deals (Al Bashir, principles of administrative law, 2011, p. 17) .

Whatever these relations are, they must be subject to legal rules that are consistent with the purpose of their existence according to the general principle, which is every rule that reaches a level of importance, which makes it the basis of many of the subordinate rules. It is a rule that has reached a high degree of generality, with which many subordinate rules can be derived (Rifat, 2016, p. 54). Therefore, the general principles of law form the philosophy behind crafting the rules of administrative law terms of their unwritten nature. However, they do not have the capacity for self-execution and require detailed written rules to create rights and obligations.

These detailed rules are either in the form of legal texts that prove the legal principle or in the form of a judgment issued by the administrative judge on the occasion of his consideration of an administrative lawsuit or during the exercise of his role in the field of legal advice and opinion. Therefore, they are of a general nature derived from their recognition by the national legislation of most countries, regardless of the nature of the legal system to which they belong. Their acquisition of this generality will make them basic principles that (Ali Hassan, 2014, p. 17) enter into the administrative law industry as they dominate a set of detailed rules from which they branch.

Finally, it can be said that the philosophy of making the rules of administrative law is nothing more than an integrated process that combines privacy and objectivity. Its purpose is to find innovative solutions to the issues presented before the administrative judge or the administrative man

and put them into practice to become applicable rules, and distinguish administrative law from other branches of law.

4. Conclusion:

Administrative law, as a set of rules, regulations and systems that regulate the behavior of the public administration and control disputes arising from the relationship of the administration with others, and due to the multiplicity of activities practiced by the public administration with its multiplicity of relations as it practices a public activity in most cases and may practice an activity similar to private activity at other times, it was necessary to rely on a philosophy in the manufacture of administrative law rules that combines privacy and objectivity to know the administrative relations governed by administrative law and those that are outside its scope, where the role of the administrative judge appears in the creation and formation of legal rules in many cases.

The specificity of the administrative law is reflected in the most important criteria on which this law is based to determine the legal rules applicable to the public administration in the exercise of its powers and authorities (the applicable law) on the one hand, and the knowledge of the judicial authority competent to adjudicate administrative disputes (the competent judiciary) on the other hand. The objectivity of the administrative law is reflected in the inequality between the parties to the relationship approved by the administrative law, and the inspiration of some of its provisions and rules from the private law, in addition to the fact that some of its rules do not find a parallel in the private law. Finally, the administrative judiciary does not create judicial precedents, so we have reached two main conclusions that we mention as follows:

1. Administrative law is affected by its surroundings, which has made it a law that is constantly evolving and changing to keep pace with modern social, economic and technological challenges, which opens the way in the future to find new rules that are consistent with the data of that environment.

2. Administrative law is linked to the principle of privacy and objectivity that distinguishes it from private law, which makes its disputes of a special nature and subject to a competent judiciary, which is the administrative

judiciary, due to those powers and authorities that the public administration has in making its decisions, and its use of legal means such as contracts and administrative decisions, without forgetting the administrative responsibility that determines how to hold the administration accountable when it violates a right of individuals.

Finally, the following most important suggestions can be mentioned:

1. Administrative law must have the overriding goal of administrative justice based on ensuring the right of individuals and bodies to have recourse to the judiciary to challenge the decisions of administrative authorities whenever they believe that there is a deviation from the law or an abuse of power;

2. Administrative law shall implement public policies in a manner that achieves a balance between the needs of individuals and the requirements of public administration.

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