

Journal of legal and social studies

Issn: 2507-7333

Eissn: 2676-1742

**DEVIATION IN THE USE OF AUTHORITY IN ADMINISTRATIVE
DECISIONS**

Boukhadra brahim^{*}

¹Faculty of Law and Political Sciences at Blida University 02 (Algeria),
boukhadrabrahim16@gmail.com

Date of send: 01 / 09 / 2023	date of acceptance: 12 / 12 /2023	Date of Publication: 17/12/2023
------------------------------	-----------------------------------	---------------------------------

^{*}Correspondingauthor

Abstract:

The defect of deviation in the use of authority is linked to the purpose pillar of the administrative decision; the latter through which the source of the decision aims to achieve the public welfare. However, the public administration may deviate from the requirements of this interest and aims to achieve an interest outside the framework of the public welfare, what increases the difficulty of the administrative judge when finding evidence of this deviation.

Keywords: management man; deviation in the use of authority; allocation of goals.

INTRODUCTION.

The works issued by the public administration are parted into two categories: administrative decisions and administrative contracts which are considered among the most important privileges of the public authority used by the administration to carry out its functions to achieve the public welfare. These privileges are not absolute; they are surrounded by a fence that protects the individuals' rights and freedoms which is the principle of legitimacy defined by the most accurate jurisprudence as the submission of the rulers and the ruled to the provisions of the law. This principle is preserved through the oversight provided by the legislator over the work of the administration. It is the judicial control exercised over these decisions by revoking them if it is confirmed that there is a defect that affects one of the pillars of an administrative decision.

The administrative judge's control varies according to the authority granted by law to the administration, whether it is a restricted authority or a discretionary authority; If the matter is related to the element of jurisdiction or the element of form and procedures and the element of violation of the law, then its authority is restricted. But, if it is related to the purpose of issuing an administrative decision, then the authority of the public administration is discretionary.

The intention element is linked to a fundamental defect that jurisprudence expresses in the defect of deviation in the use of authority. This is one of the most difficult and complex defects in terms of imposing a judicial oversight on it by the administrative judge to prove the deviation of the public administration from the requirements of the public welfare.

However, the administrative judge's oversight becomes more complicated when an administration worker seeks to achieve an interest outside the scope of the public welfare, whether for the source of the decision or for others.

The difficulty increases for the administrative judge when the administration aims to achieve a public welfare (the apparent goal) other than the interest allocated to that service. As for the specificity of this hidden defect which is mainly related to the of the n's ethics, the revocation of administrative decisions tainted by the defect of deviation of authority is characterized by a special feature. We will try throughout this paper to discuss by posing the following problem: To which extent is the public administration deviates from the public welfare requirements when issuing administrative decisions.

In order to deal with this dilemma, this research is divided into two parts. The first one deals with the concept of deviation in the use of authority whereas the second is about the aspects of the defective deviations in the use of authority.

THE CONCEPT OF DEVIATION IN THE USE OF AUTHORITY.

The deviation in the use of authority is one of the defects that affect the administrative decision when related to its intention. This is because the aim of issuing administrative decisions is to achieve the public wellbeing. If the administration worker aims to achieve an interest other than the public welfare then he has deviated from the goal that the legislator has set for him.

Therefore, in this section of this research paper, we will display the most important defects which are related to the administrative decision in the first study. In the second one, we will define the defect of deviation in the use of authority. Finally, in the third one, we will deal with its main characteristics.

THE DEFECTS OF THE ADMINISTRATIVE DECISION IN GENERAL.

Most of the administrative jurisprudence confirms that the administrative decision is based on five parts, and the default of one of them entails its invalidity. Therefore, the appeal for revocation, whether it is filed before the administrative courts or the State Council, concerns all the defects that may befall these parts which are the competence, the form and procedures, the reason, and the intention.¹

Jurisprudence has divided these defects into defects affecting the administrative decision in terms of its external fundament and defects affecting the decision in terms of its internal fundament. As for the defects that afflict the decision in terms of its external elements, they are represented by the defect of lack of jurisdiction. This is the oldest of the defects which has been adopted by the French State Council since 1807 in the “Dupuy-Briace” case with the intention of revoking the decisions that infringe the principle of legality. Therefore, the revoking lawsuit in France was called a claim of abuse of authority.²

The defect of lack of jurisdiction is the legal incapacity of an authority to take a decision or conduct an action that does not fall within its competence. It is divided into the defect of gross lack of jurisdiction and the defect of simple lack of competence. As for the serious defect of lack of jurisdiction, it is represented in what is called the usurpation of authority. This defect is achieved when a decision is issued by a person whom the legislator did not grant the authority to issue it.³ These are the cases in which the decision is taken by a completely foreign person from the ranks of the administrative staff, or by a non-competent administrative authority, as it encroaches on the jurisdiction of the judicial or legislative authority.

This requires considering that behaviour as a non-existent decision, as if it did not happen since it does not entail any right. An example of this is when an ordinary person with no connection with the administration gives himself the right to issue administrative decisions, while the law did not grant him this right.⁴

As for the defect of simple lack of jurisdiction, such as the defect of lack of spatial jurisdiction, it is the most widespread and less serious in terms of its consequences. An example of this is when an administrative authority issues a decision out of the regional jurisdiction that the law has defined for it. There is also the deficiency of lack of temporal jurisdiction. This is achieved when the administrative authority exercises its jurisdiction during a period of time in which its jurisdiction is not established.⁵

The form of the administrative decision is the external appearance that the administration takes to express its will. There are a number of formalities that form the external appearance of administrative decisions, such as the formality of signing, informing administrative decisions and the formality of causing the decision. The defect is achieved if the administration takes a behaviour contrary to these formalities.⁶

The cornerstone of the procedures is the arrangements that the administration follows before taking the decision, i.e. those that precede its final issuance such as the consultation procedure. This latter may be optional or compulsory. In the first approach, the administration may resort to consulting another party before making the decision without being there a text obligating it to do so. For the second, when there is a text that obligates it, before making a decision it must resort to consulting another administrative body.⁷

The legitimacy of the internal decision is represented in the defect of violating the law, the defect of lack of causation, and the defect of deviation in the use of authority. The defect of violating the law appeared in the “Bizet” case. The Council of State expressed this defect on March 13, 1867 with the phrase: “Direct violation of the law”. This defect is the defect that afflicts the place of administrative decisions when the administrative decisions are issued in violation of their place, i.e. in their legal effects its legal implications.⁸

As for the defect of lack of causation, it is represented in the fact that the reason for the administrative decision is the factual or legal situation that precedes the administrative decision and prompts its issuance. Therefore, as a legal action, it must be based on a valid reason that justifies it and represents the reason for its issuance because the rule is that every legal action has a valid reason whether it is a decision or a contract. In addition, every administrative decision issued by the administration aims at achieving the public welfare. If the administration deviated from achieving this welfare, it would have deviated from its authority, and therefore its decision will be tainted by illegality which requires its cancellation by the administrative judge.⁹

THE DEFINITION OF DEVIATION IN THE USE OF AUTHORITY.

Deviation means inclination, reversal, and change which is the change of something from its position, including the distortion of words i.e. changing their meaning whereas deviation from something is the divergence from it.¹⁰

This aspect of revocation is called by different names. It is the abuse of authority, surpassing the authority, or the deviation of authority. Like other aspects of revocation, it extends to all administrative decisions, whether individual or organizational.

Some have defined it as the use of a certain authority by an administrative body in order to achieve a goal other than the authority that the law has granted it. This defect occurs when the administration deliberately uses its authority to achieve a goal different from the authority that it was granted.¹¹

Madjid Raghieb Al-Helou defined it as when "the deciding source exercises the authority conferred to it by the law to achieve goals other than those set for it". Then, he adds, "The administration worker must seek, through the decisions he issues to achieve in general the goal that the legislator intends to with these decisions. By acting to achieve another goal, his decision becomes invalid and deserved to be cancelled."¹²

Professors "Obi and Dargo" defined it as "a defect in the administrative decision, which we encounter when an administrative authority willingly uses its authority to achieve a goal other than the one which was granted to it."¹³

These previous definitions make it clear that the defect of deviation in the use of authority is not in the external legitimacy of the contested administrative decision, but rather in the legitimacy of the goal that the administration targeted when issuing the decision. It is a defect related to the essence of the administrative decision, not its apparent form. Therefore, the administrative judge must examine the intentions and purposes of the decision, examine, and evaluate them. The supervision of the administrative judge over this defect takes the form of investigating the secrets of the human psyche or the intent that the administrative worker envisages when issuing the decision.¹⁴

Therefore, the deviation in the use of authority entails the imposition of appropriate sanctions towards the source of the decision, in application of Article 25 of the Algerian Constitution,¹⁵ which stipulates that "the abuse of authority and arbitrariness in the use of authority are punishable by the law". Although the constitutional founder has given a constitutional protection to this arbitrariness emanating from the administration worker, he has threatened the perpetrators with criminal penalties, according to Article 33 of the Prevention and Combating Corruption Law¹⁶ which stipulates that "every public official who abuses his functions shall be punished with imprisonment of two to ten years and a fine of 200,000 DZD to 1,000,000 DZD."

THE CHARACTERISTICS OF THE DEFECT OF DEVIATION IN THE USE OF AUTHORITY.

The defect of deviation is characterized by features that distinguish it from the rest of the other defects as it makes the task of the administrative judge in proving this deviation a tedious and difficult task because it dives into the depths of the human psyche of the administration worker to prove this deviation. It is a defect related - as we mentioned earlier - to the purpose of issuing the administrative decision, which is to achieve the public welfare. However, if the administration's intention was directed towards achieving a goal other than the public welfare or the goal specified in the law, then it would have deviated from the authority granted by the law.¹⁷

The defect of deviation in the use of authority requires research into the intentions and motives of the administrative decision. It is thus one of the psychological and subjective aspects that require the administrative judge to make great efforts to prove this deviation.¹⁸ Because a work tainted by the defect of deviation in the use of authority is sound work in all its apparent aspects. This defect is not one of the formal defects in the administrative decision because it is related to the administration worker's intentions and purposes and his real (disguised) goal that he seeks to achieve. In this case, the appellant accuses the administration of deviating deliberately with a bad faith to achieve illegitimate goals.¹⁹

It is also one of the intentional defects in administrative work. That is, the administration intends to abuse or deviate from authority. The defect of the abuse of authority that justifies the revocation of the administrative decision must mar its purpose in that the administration has deviated from the public welfare intended by the decision.²⁰

Consequently, some jurisprudence considers that the defect of deviation in the use of authority is one of the deliberate crimes for which it is necessary to have intention. Their support in that is the rulings of the administrative judiciary, including what the Supreme Administrative Court in Egypt which ruled that "the misuse of authority or deviation from it are two of the intentional defects in administrative behaviour based on the administration intention to use or deviate from authority. So, the defect of abuse of authority that justifies the revocation of the administrative decision or compensation must be marred by its very purpose that the administration may have deviated from the public welfare that should be pursued by the administrative decision, or that it has issued the decision for a motive that does not correspond to that welfare."²¹

As a personal defect, the deviation of authority is associated to the discretion of the administration²² because the work in which the defect of deviance from authority may appear is evident as a result of the administration worker achieving a goal other than the one specified by the legislator. It is unconceivable that this defect would exist in the case of the administration's conduct of a restricted competence which is the competence specified by the explicit texts of the law as the matter in this case is not without two hypotheses. The first one is that the administration adheres to the limits of the law, so its decision is issued correctly

and without any defect as the administration did nothing more than implementing the law. As for the second; if it violates these provisions, then its decision is tainted with the defect of violating the law, and the judge has the right to revoke it.²³

Moreover, the defect of deviation in the use of authority is not related to public order and it is not raised by the judge by his own whereas the defect of lack of jurisdiction is considered the only defect related to public order. As long as the defect of deviation in the use of authority is related to personal elements related to the employee who is the source of the decision, this specificity means that the administrative judge begins by investigating the other defects upon which the appellant relies in his case. If it is established that there is another defect, he shall rule to cancel the administrative decision without the need to investigate the defect of deviation in the use of power.²⁴

ASPECTS OF DEFECTIVE DEVIATION IN THE USE OF AUTHORITY.

The purpose of the administrative decision is to achieve the public welfare which is the ultimate goal pursued by the source of the administrative decision. If the administration worker uses his authority to achieve other than the public welfare or the goal legally designated by his decision, he would have misused his authority and deviated from the goal that he should have achieved. Then, his decision is marred by illegality. These aspects will be exposed in the following items.

DEVIATION FROM THE PUBLIC WELFARE.

This case is one of the most dangerous cases of deviation in the use of authority because any decision must be issued in order to achieve the public welfare. Otherwise, it would be marred by the defect of deviation of authority. However, if the administration worker exploited the authority granted to him to achieve a personal benefit or purpose for himself or for others, or exercised it with the intent of exploitation or revenge, for example, then his decision is defective.²⁵

An example of a case of an administration worker using his power and authority to issue a decision aimed at achieving a benefit for others or for himself is what happened with the French Council of State when “the mayor’s decision to approve the municipality’s plan to seize the land of his own and his family to make an amendment to its arrangement with the aim of raising the maximum limit of the buildings height which can be erected there. This case is marred by an abuse of authority since the mayor and his family are the owners of this land and that the modifications proposed by his decision are not justified by the aim of the public welfare.”²⁶ In practice, the administration worker, whether he is a boss or a subordinate, often uses his authority to achieve a personal interest for himself or for others at the expense of the group’s interests. Here, his decision is considered illegality because it is flawed by the defect of deviation in the use of power. The administration worker who is supposed to work to achieve the social group’s welfare forgets his duty and his administrative morality and seeks to obtain a self-benefit for himself or for others. So, he goes out of the scope of his job and his work loses its public character.²⁷

The administrative officer may plan, by exercising his authority, to take revenge and gloat in response to personal claims of grudge or hostility that confront him. Hence, if he deviates from the goal and uses his authority as a weapon against his enemies, chaos spreads within the ranks of the administration itself and distrust extends among its members. As a consequence of that, the decision to dismiss one of the employees was cancelled as the administration was drawn to that because of the mayor's insistence on his position towards the plaintiff; a position that did not come from him except for personal grudges that is not relevant to the public welfare ".²⁸

Likewise, what was ruled by the French judiciary in a case that prompted the mayor to issue ten successive decisions to suspend a guard from his duties with the aim of revenge;²⁹ The defect of deviation in the use of authority may be aimed at political or partisan purposes far from the public welfare, such as a member of the administrative authority issuing a decision to grant a subsidy to a certain party or to stop the material assistance that is granted to it with the aim of achieving certain political purposes in favour of one of the institutions that is associated to that party. The purpose of the administrative decision may be to abuse political or religious enemies.³⁰

An administration officer may deviate from authority with the aim of defrauding the law or circumventing the implementation of judicial rulings. This is represented by an administration issuing an administrative decision aimed at circumventing the implementation of a judicial ruling or evading its implementation, such as an administration issuing an administrative decision to expropriate a specific property rented by it with the aim of disrupting the court's ruling to vacate that property. In this case, the decision is tainted with the defect of abuse of authority.³¹

The administrative authority may prefer within the scope of its refusal to implement the rulings issued against it, by leaving these rulings unexecuted, partially implement, or explicitly refusing to execute them. Its procedure is a permanent negativity. However, it often follows a positive method by issuing a positive personal decision which remove all the traces of that situation or makes trouble in implementation.³²

THE DEVIATION RELATED TO THE VIOLATION OF THE TARGET ALLOCATION RULE

The second form of deviation in the use of authority occurs when the administration tries to achieve a public welfare other than the one allocated to that facility as the competent administrative authorities use the privileges and public authority's manifestations to achieve goals that fall within the scope of the objectives of the public welfare, but are not the goals assigned to them. This is called the goal allocation rule.³³

Therefore, the goal allocating rule in administrative decisions is related to the individuals' rights and the administrative arbitrariness because the principle is that the administration has discretion in selecting the goal of issuing its decisions,

provided that it is within the welfare framework. However, the legislator often restricts it by a legal text intending to achieve a specific goal; that is, a specific aspect of the public welfare. In this case, it must seek that specific goal. Otherwise, its decision will be defective and invalid, even if it proves that it has sought the public welfare but has changed the aspect of the public welfare defined by the law.³⁴

Therefore, the administrative officer uses the authorities granted to him under the provisions of the law to achieve certain goals even if they are related to the public welfare, but not assigned to him to achieve them. The decision issued on the subject of administrative control must preserve the elements of public order, public security, public health, public tranquillity and public morals. If the administrative control authority issues a decision to protect an element other than the previous ones, its decision would be flawed by the defect of deviating of the authority, even if it achieves the public welfare in its assessment³⁵ 35. This is what the French Council of State ruled in the Bougie case, the facts of which are represented in the issuance of a decision by the mayor of Paris to prevent bathers from wearing and removing their clothes on the beach and forcing them to undress in isolators belonging to the municipality in exchange of a symbolic sum. This decision does not aim to achieve and protect public morals as the source of the decision claims (which is a legitimate goal), but its hidden goal is to achieve a financial interest for the municipality (collection of fees), and this is authentic deviation.³⁶

The Algerian judiciary ruled in a case and annulled an administrative decision, which can be summed up in the fact that the mayor of Ain El-Benyan issued an administrative control decision on May 20, 1975 banning the consumption and sale of alcoholic beverages in bars and restaurants in the municipality except in the "Jamila" tourist center. The decision stated that "If the mayor of Ain El-Benyan used the authority vested in him under Article 237 of the municipal law to regulate alcoholic beverages sale and consumption in public facilities in the municipality in order to protect public order, it becomes clear through this investigation that he took this measure for reasons alien to the system." This is by prohibiting the sale of alcoholic beverages, while licensing the sale of these beverages in other facilities.³⁷

In order to achieve the general goal entrusted to him, an administration officer may use a means that is not legally prescribed as when he violates the procedures that must be followed. He may specify the objective of issuing an administrative decision in an explicit legal text. When it is not specified, it may be drawn from the spirit of the legislation or from the nature of the competence granted to the source of the decision.³⁸

Among the common applications for violating the target allocation rule, there is the employees transfer or their assignment to other jobs instead of imposing disciplinary sanctions on them. This is called disguised disciplinary sanctions behind the guise of organizing work in departments, and public facilities.³⁹

The deviation also appears in the use of the authority of seizure. The case of "Ain Al-Fakharine Company" against "the State" is an apparent example. The

administrator of Algeria issued a decision to seize a space owned by the concerned company and put it at the disposal of the National Housing Office with a moderate fee for the city of Algiers. His purpose was only to enable the Court to take possession of the space without following the legal procedures for expropriation; therefore this procedure becomes a deviation of the authority and is invalid.⁴⁰

The specification in the objectives of the administrative decision may be benefited from the explicitness of the text. For example, the legislator specifies a specific goal for the Minister of Trade decisions which is to provide foodstuffs to the general public and achieve justice in their distribution. If these decisions aim to achieve other specified goal, such as aiming at larger economic returns for the state, then they are marred by deviation in the use of authority.⁴¹

There are few decisions embodying the defect of deviation in the use of authority in the Algerian judiciary. The administrative judge finds it difficult to prove the deviation due to the attachment of this deviation and defect to the depths of the human psyche. Therefore, he resorts to invalidating the contested administrative decision on the basis of the defect of lack of jurisdiction, or he resorts to declaring the existence of a defect in violation of the law. This exempts him from delving into the search for the real defect which is difficult to prove, especially if it is represented in the defect of deviation in the use of authority.⁴²

PROVING THE DEVIATION IN THE USE OF AUTHORITY.

The defect of authority deviation is considered a personal nature defect related to the psyche of the source of the decision compared to other defects. This makes relying on these aspects easier than the authority deviation in cancelling the illegal administrative decision. The jurist "Bonnar" justifies that a tainted work is a sound work in all its apparent elements. However, the authority issuing the decision does not aim to achieve the public welfare or aims to achieve a purpose other than that specified in the law. Therefore, the proof of deviation requires research into the psychological motives of the source of the decision, and this is what complicates the administrative judge's task to prove it.⁴³

The Egyptian State Council adopted its French counterpart's position in proving the deviation of authority. It was stated in a ruling by the Administrative Judiciary Court that "jurisprudence and the judiciary have settled on proving the defective abuse of authority through the administration's recognition, and the text of the decision may include the administration's unintentional recognition of the deviation of authority." This recognition is sometimes done when the administration thinks that it has not made a mistake, so as it reveals its goal it becomes clear that it is not the goal that the law wanted.⁴⁴

However, it is difficult for the plaintiff bringing the suit to prove the fault of the administration, or rather to prove the deviation. This is due to the fact that the administration usually possesses the documents that the plaintiff can rely on as evidence. As these documents constitute the evidence that can be presented to the judge to prove the illegality of the contested decision, their presence in the possession of the administration makes the task of proof difficult. What increases the difficulty of proving the defect of deviation for the claimant is the presumption of validity enjoyed by the administrative decisions. The basic principle in the

administrative decision is that it is legitimate until evidence to the contrary is established.⁴⁵

The deviation of the administration authority can be discovered from the text of the contested administrative decision. This is a rare case which resulted from the administration's keenness not to show its arbitrariness in the content of the decision. However, it may happen that the decision about the defect of the arbitrariness appears from the text of the administrative authority, whether it was done inadvertently, by mistake, or coercion, or obedience. Then, the administrative judge draws his evidence from the texts of the decision itself.⁴⁶

The apparent inadequacy is also evidence of abuse in the administration's use of its discretionary authority, especially in the disciplinary field. The sanction must be appropriate to the administrative offence. If there is an apparent incompatibility between them, the decision is marred by the defect of deviation of authority. The French administrative judiciary cancels decisions when there is a disproportion between the violation committed by the employee and the penalty on the basis of an apparent error while the Egyptian judiciary abolishes it on the grounds of exaggeration in the use of authority.⁴⁷

The Algerian Council of State has taken an attitude regarding that, contrary to what the appellant's refutation, the appealed decision; the basis of accepting the respondent's case, which was suspended orally, is considered an authority transgression and is refuted because of a missing financial post. This refutation is not justified in the current case related to the suspension of an employee without obtaining the decision and the reason for the suspension. As a result, the appeal was accepted in form and the appealed decision was upheld in substance.⁴⁸

If the administration takes strict sanction against an employee based on a non-serious mistake, the incident is considered a presumption that makes the administrative judge inclined to annul it if other evidence of the defect of deviation is found. If the administration has the authority to estimate the sanction in the light of its assessment of the seriousness of the disciplinary offense and the appropriate sanction, this sanction is unlawful if it exceeds every legal limit and the lack of proportionality between them and the crime is apparent and disregarded by the spirit of the law.⁴⁹

Therefore, it is permissible to prove the administration's deviation from the evidence related to the dispute. This has been evident from what the French State Council decided to refer the claimant to automatic retirement due to the cancellation of the claimant's job because he had charged the administration with deviating from authority. The real purpose of his retirement was to punish him for his continuous resort to suing the administration. His only evidence was the mere comparison between the date of issuance of the decision to refer him to retirement and the last lawsuit he filed against the administration. And, the State Council ruled for him with his requests.⁵⁰

The defect of deviation of authority actually used for personal purposes, favouritism, or with the intent of revenge, or to achieve a political or partisan purpose - as we mentioned above -.In fact, the oversight of the administrative

judge regarding the defective deviation in the use of authority remains one of the arduous tasks. The French jurist "Hauriou" believes that the administrative judge's control in the defect of deviation in the use of authority goes beyond the control of legality to assess administrative ethics.⁵¹

CONCLUSION.

As a conclusion to our study entitled "The deviation in the use of authority in administrative decisions", it becomes clear that this defect is mainly related to the objective of administrative decisions which should aim at the common good. However, due to the difficulty facing the administrative judge to reveal the deviation that the administrative officer perpetrates to achieve purposes other than those of the public welfare or he perpetrates to achieve a purpose that falls within the objectives of the public welfare, but other than the goal designated for that facility. It turns out that it is a hidden defect lurking in the depth of the human psyche of the administrative officer. Therefore, it is a precautionary defect that is not resorted to by the administrative judge except when there are no other defects in the decision. Finally, the following conclusions and recommendations have been reached:

A. The obtained results:

- The defect of deviation in the use of authority appeared after the end of the nineteenth century, after the defect of lack of jurisdiction, the defect of form and procedures, and the defect of violating the law.
- The defect of deviation in the use of authority is of a personal nature due to its association with the intentions and motives that drive the administration officer to take an administrative decision.
- There are many hidden goals that drive the administration to deviate from authority when it exploits its authority to achieve purposes far from the public welfare and to deviate from the designated goals.
- The defect of deviation in the use of authority is considered one of the defects directly related to the discretionary authority of the administration and not to the restricted authority. In other words, the discretionary authority is mainly related to the defect of deviation in the use of authority, considering that with the restrictive authority of the administration, the defects that can be associated with the administrative decision are the defects of form, jurisdiction and violation of the law.

B. The recommendations that can be achieved:

- The need to form judges specialized in administrative disputes to counter the administration manipulations, especially when it has a discretionary authority in its function.
- Considering that the defect of deviation in the use of authority is a hidden defect inherent in the psyche of the administrative officer, and the judge finds it very difficult to prove this defect, the task of the claimant or the appellant, should be facilitated upon proof.

- Making the defect of deviation in the use of authority a public order through which the administrative judge can raise it by himself.

Bibliography List :

- 1. Books :** author's name, full title, publishing, P.;
- 2. Journal article :** author's name, full title of the article, review name, place, volume and number, year, P.;
- 3. Seminar article:** author's name, full title of the paper, title of seminar, place and date, country;
- 4. Internet websites:** author's name, full title of the file, (consulted on day/month/year/hour), article link.

1. Dr. LaloRabeh: Basic Introductions in Administrative Law "Administrative Organization – Administrative Decisions – Public Transactions – Public Utilities – Administrative Control", Beit El-Afker (House of Ideas); 2022 edition; p. 124
2. Dr. AttabYounes: The Objective Conditions for Accepting the Annulment Lawsuit Against the Contested Decision; Numerous Academic Journal; volume four; first issue; year 2023; p. 171 g
3. Dr. Abd al-RahmanMu'aidi: The Defect of Lack of Jurisdiction in the Administrative Decision and its Impact when Ruling in the Annulment Case; Journal of Law and Political Sciences; volume 14; Issue 4; year 2021; p. 156.
4. Dr. AmmarAwabdi: The General Theory of Administrative Disputes in the Algerian Judicial System; Part Two (Administrative Case Theory); p. 505.
5. Dr. Abd al-RahmanMu'aidi: The previous reference; P. 261 et seq.
6. Dr. Abdullah Abu Samhdana, The Administrative Decision in Theory and Practice, "An Analytical Study in Light of the Latest Amendments of Legislation and Jurisprudence Views," First Edition, The National Center for Legal Publications, Cairo, 2012, pg. 150.
7. Dr. AttabYounes: The previous reference; p. 181
8. Dr. AmmarAwabidi: The previous reference; p. 523.
9. Dr. LaloRabeh: The previous reference; P. 131 and 132.
10. Dr. Elian Bouziane: The Defect of Deviation in the Constituent Authority - The Phenomenon of Constitutional Deviation, "A Comparative Study"; Journal of Research in Law and Political Science; Volume 05 Issue 01; p. 3.
11. Dr. Mohamed FathiShehta, Ibrahim Diab: Deviation of the Authority in Issuing Administrative Decisions "An Analytical Study of the Saudi and Egyptian Systems"; Journal of Legal and Economic Research; Issue 63 August 2018; p. 543.
12. Dr. AtallahTaj: Deviation in the Use of Power as an Aspect of Annulment of the Administrative Decision, "A comparative study", Dafater Al-Seyassah and Law Journal; Issue January 16, 2017; p. 15
13. Dr. AmmarAwabdi: The previous reference; p. 531.

- 14.Pr/ Bulakwas Sana: The Specificity of Cancelling Administrative Decisions that are Tainted by the Defect of Perverting Authority; Majalatu'lfikr (The thinker magazine); Issue 13; University of Biskra Mohammed Khidar University; P. 305 and 306 .
15. Presidential Decree No. 20-442 of December 30, 2020 including the constitutional amendment Official Journal No. 82
16. Law No. 01-06 of February 20, 2006, Official Journal No. 14 of March 08, 2006.
- 17.Dr. AtallahTaj: The previous reference; p. 16.
18. Dr. Habib Ibrahim Hamada Al-Dulaimi: Limits of the Authority of Administrative Control in Exceptional Circumstances; Doctoral Dissertation; University of Babylon ; 2007; p. 109.
- 19.Pr / Boulakwas Sana: The previous reference; P. 311 and 312.
20. Dr. HamdiYassinOkasha: The Administrative Decision in the State Council Decision; Alexandria Knowledge Facility; 1987; p. 565
21. Dr. Mohamed FathiShehta Ibrahim Diab; The previous reference ; p. 568
22. Dr. AmmarAwabdi: The previous reference, pg. 531.
23. Dr. Abdel-Aziz Abdel-MoneimKhalifa: Deviation from Authority as a Reason for Annulment of the Administrative Decision; Dar El-fikr Al-Djami'i (University Thought House); Alexandria ; 2001; p. 62.
- 24.Dr. AtallahTaj: The previous reference; p. 17
25. Pr/Boulakwas Sana: The previous reference; p. 306.
26. Dr. Mansour Ibrahim Al-'Atoum; Administrative Judiciary, "A Comparative Study"; first edition; Wael Publishing House; Oman ; 2003; p. 170
27. Pr/Boulakwas Sana: The previous reference; p. 307.
28. Dr. Mohamed FathiShehta Ibrahim Diab; The previous reference ; pp. 586 and 587
29. Resolution of the French Council of State of 23 July 1909; The case of Virag is referred to in the reference of Dr. AmmarAwabdi; Ibid. 533.
30. Dr. Mohamed Fathi Ibrahim Diab: The same reference; p. 588.
31. Dr. AtallahTaj: The previous reference; p. 18.
32. Dr. Dr. Mohamed FathiShehta Ibrahim Diab: The previous reference; p. 589
33. Dr. AmmarAwabedi: The previous reference; p. 535 g
34. Dr. / Qadir Ahmed Abdul-Husseini: The Deviation of the Administrative Decision from the Rule of Allocating Goals in the Iraqi Legislation, "a comparative study", the University of Kirkuk; 2010; p. 3
35. Pr/ Boulakwas Sana: The previous reference; p. 308.
36. Pr. 'Amour Sellami: Al-Wajeez in Administrative Disputes; A publication given to third-year undergraduate students; Ben Aknoun Faculty of Law; Algeria University ; year 2004/2005; p. 100
37. The case of (K.H.): The Administrative Chamber of the Supreme Court on 04/03/1978.
38. Pr/ Boulakwas Sana: The previous reference; p. 309.
39. Dr. Muhammad FathiShehta Ibrahim Diab: The previous reference; p. 594
40. Dr. AtallahTaj: The previous reference; p. 19

41. Dr. Qader Ahmed Abdel-Husseini: The previous reference; p. 5.
42. Dr. AmmarAwabedi: The previous reference; p. 548.
43. Dr. BulgrinatIkram: The Administrative Judge's Review of the Fault of Deviation in the Use of Authority; Doctoral Dissertation; University of Algiers 1; Ben Youssef Ben Khadda; year 2021-2022; p. 79.
44. Pr. Walaa Mohamed Abdel-Fattah Qumra: Judicial Control over the Deviation of Authority in Order to Achieve the Public Welfare; Master Thesis ; Alexandria University ; 2019; p. 48.
45. Pr. Hassan Khaled Mohammed Al-Faleet: Deviation in the Use of Authority and its Impact on The Administrative Decision; Master Thesis ; Al Azhar University ; Gaza ; 2014 ; p. 88.
46. Dr. Ziad Adel: Proving The Defect of the Public Administration's Deviation in the Use of Public Authority; Journal of Law and Political Sciences; issue 07; January 2017; Khenchela University; p. 159.
47. Dr. BoukritRabia: The Role of the Administrative Judge in Proving the Defect of Authority Deviation, "A Comparative Study", Journal of the Researcher for Legal and Political Studies; volume 07; Issue 01; June 2022; p. 239
48. Decision No. 6919 dated 03/18/2003, the case of the Mayor of Tiaret against B-Z. An unpublished decision; Referred to in the reference of Dr. Ziad Adel: The previous reference; p. 1 60
49. Dr. BoulgrinatIkram: Ibid.; p. 325
50. The 1966 Rodier case referred to in a reference by Dr. Ziad Adel: previous reference; p. 162.
51. Dr. AmmarAwabdi: The previous reference; p. 540.