

**CONTROLS OVER THE SEPARATION OF ADMINISTRATIVE
DECISION FROM THE CONTRACTUAL PROCESS IN THE
MANAGEMENT CONTRACT
(COMPARATIVE ANALYSIS)**

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This study sheds a light on the meaning of the theory of the separation of administrative decision. It sheds a light on the controls over the the separation of administrative decision from the contractual process in the management contract. It identifies the impact of issuing a judgment for annulling the administrative decision from the contractual process.

It was found that results of using the meaning of the separation of administrative decision aren't always as expected. Such separation serves as a temporary substitute for annulling the separated decision due to the difficulty of enforcing the judgment of annulling. The theory of the separation of administrative decision is considered the innovation of the French administrative judiciary. The latter judiciary developed most of the administrative law-related theories. Thus, it stopped adopting the parallel lawsuit theory that adopts a constructionist approach. It suggests that the complex administrative process is one unit that can't be divided. Thus, it suggests that no appeal can be filed for annulling the decisions that contributed to forming the administrative process. Then, the French judiciary shifted gradually to adopting the theory of the separation of administrative decision. The latter theory is based on the permissibility to analyse the complex administrative process and separating the complex administrative decision. It suggests that a claim can be filed against administrative decisions for annulling them. Thus, the French judiciary shifted from adopting a constructionist approach into adopting an analytical approach. The same is adopted by the Jordanian, and Egyptian administrative judiciaries. The French judiciary adopted the theory of the separation of administrative decision during the stage that preceded the conclusion of the contract. The same is adopted by the Jordanian, and Egyptian administrative judiciaries

The researcher recommends putting all the administrative conflicts under the scope of the administrative court. The same is carried out by the French Egyptian administrative judiciaries. The researcher recommends developing a solution for the problem of the theoretical impact of the judgment suggesting that the decision is annulled in response to the claim filed by others. This problem is still existent in Jordan. The researcher recommends allowing the judge responsible for annulling to set all the logical implications of annulling the decision that can be separated and the implications of considering the contract annulled. She recommends granting the administrative Supreme Court the power to look into the claims filed against administrative decisions. She recommends refraining from limiting the powers administrative Supreme Court to certain appeals only. She recommends issuing a law by the Egyptian and Jordanian

administrative judiciaries that requires enforcing a fine on the administration that doesn't apply the judgment of annulling. This step was taken by the French, Algerian and Moroccan administrative judiciaries

Keywords: controls over the separation of administrative decision, the contractual process in the administrative contract, separate administrative decision, administrative contract.